

United States
Circuit Court of Appeals

For the Ninth Circuit.

CHIN HING,

Appellant,

vs.

HENRY M. WHITE, as Commissioner of Immigration
at the Port of Seattle, Washington, for
the United States Government,

Appellee.

In the Matter of the Application of CHIN HING for
a Writ of Habeas Corpus.

Transcript of Record.

Upon Appeal from the United States District Court for
the Western District of Washington, Northern Division.

Filed

DEC 20 1915

F. D. Monckton,
Clerk.

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Appellant,

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HENRY M. WHITE, as Commissioner of Immigration
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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*In the District Court of the United States, for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of the Application of CHIN HING
for Writ of Habeas Corpus.

Names and Addresses of Counsel.

J. J. SULLIVAN, Esq., Attorney for Petitioner and
Appellant,
510-511 White Building, Seattle Washing-
ton.

A. M. BEELER, Esq., Attorney for Petitioner and
Appellant.
510-511 White Building, Seattle Washing-
ton.

CLAY ALLEN, Esq., United States Attorney, At-
torney for Respondent and Appellee,
310 Postoffice Building, Seattle, Washing-
ton.

GEORGE P. FISHBURNE, Esq., Assistant United
States Attorney, Attorney for Respondent and
Appellee,
310 Postoffice Building, Seattle, Washing-
ton. [1*]

*Page number appearing at foot of page of original certified Record.

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

**Petition of Ching Hing, Through and by His
Attorney, John J. Sullivan.**

Comes now John J. Sullivan, as attorney for and in behalf of Ching Hing, an alien, a subject of the Emperor of China, and a son of Chin Shew, a merchant of New York City, and respectfully makes this application for a Writ of Habeas Corpus and alleges as follows:

I.

That said Ching Hing is imprisoned and restrained of his liberty by the United States Commissioner of Immigration White and the United States Chinese Inspector Henry Monroe, or by person or persons acting through, by or under them, and that said Ching Hing is imprisoned at the Detention House at the Immigration Station in the City of Seattle, under the charge that the said Ching Hing has no lawful right to be admitted into the United States and that he should be deported according to law, and your Petitioner further informs the Honorable Court that said imprisonment, confinement and restraint and Order of Deportation is illegal and arises from the following facts, to wit: That Ching Hing arrived at the port of Seattle on a voyage from China on the 5th day of August, 1914, and said Ching Hing was denied admittance into the United States on the ground that he was not

legally entitled to be admitted therein; that said Ching Hing was given a hearing by the Immigration officials and upon evidence being presented on August 27th, 1914, an order was issued by the Commissioner of Immigration at Seattle, finding that said Ching Hing was not entitled to admission to the United States and that he should be deported; that an appeal was given by said Ching [2] Hing through his attorneys Stadden & Stewart, of Washington, D. C., to the Secretary of Labor, and that on September 26th, 1914, the said Order of Deportation and said Finding of Commissioner of Immigration of Seattle, Washington, was affirmed and said Ching Hing was ordered deported.

This petitioner is informed and believes and so states the fact to be that said Commissioner of Immigration White, in charge of the district of Washington, and said Chinese Inspector Henry Monroe, or officials or agents acting by, under or through them or for the United States Government, are about to deport and return the said Ching Hing to China, in violation of the treaty relations between the United States and China, and in violation of the laws and statutes of the United States relating to the Chinese Exclusion Act, and in violation of the laws relating to the acts and powers of the Secretary of Labor and the Assistant Secretary of Labor, in that said Ching Hing is being deprived of his liberty without due process of law and without being given a fair hearing by said Commissioner of Immigration White and said Chinese Inspector Henry Monroe, or officials acting by, under or

through them or for the United States Government.

Your petitioner further alleges that the right of appeal from said finding of Commissioner of Immigration White and Chinese Inspector Henry Monroe, or officials acting by, under or through them or for the United States Government in and for the district of Washington, by the statutes in such cases made and provided for in relation to the Chinese Exclusion Laws, has been violated and that his full rights have not been accorded to your petitioner Ching Hing, in this: That W. B. Wilson is the Secretary of Labor and that Louis Post is his only Assistant Secretary of Labor; that both of said officials, as your petitioner alleges upon information and belief and knows to be the fact, were at their respective offices in the capitol at Washington, doing the duties imposed upon them on the day that the said appeal of Ching Hing was considered [3] and that upon said day and at said time that the appeal of the said Ching Hing to the Secretary of Labor, from the decision denying the right of entry to the United States of said Ching Hing, came up for hearing and consideration, that said Secretary of Labor and the Assistant Secretary of Labor were then and there present in their respective offices and that the said secretary of Labor and Assistant Secretary of Labor under the statutes, should have considered and determined the said appeal of said Ching Hing from the said adverse decision of the said Commissioner of Immigration and Chinese Inspector Henry Monroe, but that said Secretary of Labor and Assistant Secretary of Labor failed,

neglected or refused so to do and hence the said Ching Hing has been denied his right of appeal.

Your petitioner further alleges that one J. B. Densmore is the solicitor of the Department of Labor and further alleges that said J. B. Densmore attempted to perform the duties of the Secretary of Labor or Assistant Secretary of Labor while they were present in their respective offices, and the order of the President of the United States, with due respect thereto, does not authorize J. B. Densmore, or such solicitor of the Department of Labor to perform duties of the Secretary of Labor or the Assistant Secretary of Labor, save and except in their absence, and therefore the action of said J. B. Densmore in claiming to be the acting Secretary of Labor during the presence of said officials then and there, is a usurpation of the duties imposed upon the said Secretary of the Department of Labor and the said Assistant Secretary of Labor, by Congress, and the said J. B. Densmore in assuming the duties of the said Secretary of Labor and Assistant Secretary of Labor and affirming the Finding of the Commissioner of Immigration at Seattle, Washington, and the Chinese Inspector, Henry Monroe, in relation to the case of Ching Hing, exceeded the statute, and his action in sustaining the adverse decision in relation to the right of entry of Ching Hing into the United States is null and [4] *and* the said Ching Hing has been denied the right of appeal as provided by the statutes in such cases.

Dated this 29th day of September, 1914.

JOHN J. SULLIVAN,

Atty. for Ching Hing.

State of Washington,

County of King.—ss.

John J. Sullivan, attorney for the petitioner named in the foregoing petition, being first duly sworn, on oath deposes and says: That he has read the said petition, knows the contents thereof, and that the same is true of his own knowledge and that he believes said facts to be true.

JOHN J. SULLIVAN.

Subscribed and sworn to before me this 29th day of September, 1914.

ADAM BEELER,

Notary Public in and for the State of Washington,
Residing at Seattle.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Sep. 29, 1914. Frank L. Crosby, Clerk. By E. M. L., Deputy. [5]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of the Application of CHING HING,
for Writ of Habeas Corpus.

Writ of Habeas Corpus.

The President of the United States of America, to
United States Commissioner of Immigration
White, and to United States Chinese Inspector
Henry Monroe, or to such U. S. Government
Official Having Charge or Custody of Ching
Hing, Petitioner:

We command you that you have the body of
Ching Hing, by you imprisoned and detained under
order of deportation as it is said, together with the
time and cause of such imprisonment and detention
and order of deportation by whatsoever name the
said Ching Hing shall be named or charged, before
Honorable Jeremiah Neterer, Judge of the United
States District Court for the Western District of
Washington, Northern Division, at the Federal
Building in Seattle, State of Washington, on the 1st
day of October, 1914, at 2 o'clock P. M. of that date,
to do and receive what shall then and there be con-
sidered concerning the said Ching Hing, and have
you then and there the body of the said Ching Hing
and there this writ.

WITNESS The Honorable JEREMIAH NET-
ERER, Judge of the United States District Court,
Western District of Washington, Northern Divi-
sion, at the Federal Building Seattle, Washington,
this 29th day of September, 1914. [6]

ATTEST my hand and seal of the United States District Court, the day and year last above written.

[Seal]

FRANK L. CROSBY,

Clerk.

By Ed. M. Lakin,

Deputy Clerk.

Return on Service of Writ.

United States of America,

Western District of Washington,—ss.

I hereby certify and return that I served the annexed Writ of Habeas Corpus on the therein-named United States Commissioner of Immigration Henry White by handing to and leaving a true and correct copy thereof with J. H. Sargent, U. S. Chinese Inspector personally at Seattle, in said District on the 30th day of September, A. D. 1914.

JOHN M. BOYLE,

U. S. Marshal.

J. J. Powers,

Deputy.

Marshal's fees—\$2.18.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Sep. 30, 1914. Frank L. Crosby, Clerk. By ———, Deputy. [7]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of Application of CHING HING for
a Writ of Habeas Corpus.

Order to Show Cause.

Above-named petitioner having made application to this Court for Writ of Habeas Corpus by and through John J. Sullivan, counsellor, address of United States Commissioner of Immigration White, and Henry Monroe, United States Chinese Inspector, and to such persons or agents acting by, through or under them or in behalf of the U. S. Government, in whose custody the petitioner is shown by his petition to be confined and restrained of his liberty and to be ordered deported, as alleged in his petition illegally and unwarranted and without power, and not under virtue of or by authority of the statutes of the United States, and the Court being fully advised by John J. Sullivan, counsel for the petitioner, it is ordered that the Honorable U. S. Commissioner of Immigration White, and the Honorable Henry Monroe, Chinese Inspector in and for the District of Washington in charge of the Immigration Station and Detention House at Seattle, Washington, or such persons acting under or through said parties and in behalf of the United States Government having custody of said petitioner Ching Hing, show cause before this Court at the courtroom at the Federal Building, in the City of

Seattle on the 1st day of October, 1914, at two o'clock in the P. M., why said application should not be granted and in the mean time you, [8] the Honorable U. S. Commissioner of Immigration White, and you, the Honorable Henry Monroe, Chinese Inspector in and for the District of Washington in charge of the Immigration and Detention Station at Seattle, Washington, as well as said persons who are acting under and through you, refrain and desist from deporting or placing, and removing said petitioner Ching Hing from said District or carrying into effect any warrant or order for his deportation which may be held by you or either of you.

It is further ordered that a certified copy of this order shall be served upon the Honorable U. S. Commissioner of Immigration White, or upon Honorable U. S. Chinese Commissioner Henry Monroe or such person or persons acting by or through them or in behalf of the United States in connection with the Immigration Station at Seattle, Washington, or any such Government official in charge of said Ching Hing, petitioner, on or before the hour of five (5) o'clock P. M. on this 29th day of September, 1914. Petitioner expressing ability and willingness to deposit sufficient funds to pay for his sustenance until the determination of this application and until the sailing of the next vessel, not exceeding \$100.00.

Done this 29th day of September, 1914.

JEREMIAH NETERER,

Judge.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division,

Sep. 29, 1914. Frank L. Crosby, Clerk. By E. M. L., Deputy.

Return on Service of Writ.

United States of America,
Western District of Washington,—ss.

I hereby certify and return that I served the annexed Order and Petition on the therein-named United States Commissioner of Immigration Henry White by handing to and leaving a true and correct copy thereof with J. H. Sargent, U. S. Chinese Inspector personally at Seattle, in said District, on [9] the 30th day of September, A. D. 1914.

JOHN M. BOYLE,

U. S. Marshal.

By J. J. Powers,

Deputy.

Marshal's fees—\$2.00.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Sep. 30, 1914. Frank L. Crosby, Clerk. By _____, Deputy. [10]

United States District Court for the Western District of Washington.

No. 2857.

UNITED STATES GOVT.,

Plaintiff,

vs.

CHING HING,

Defendant.

Appearance.

To the Clerk of the Above-entitled Court:

You will please enter our appearance as Attys. for Ching Hing in the above-entitled cause and service of all subsequent papers, except writs and process, may be made upon said Beeler & Sullivan, by leaving the same with

BEELER & SULLIVAN,
Office Address 510 White Bldg.,
Seattle, Wash.

[Indorsed]: Appearance. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Sep. 30, 1914. Frank L. Crosby, Clerk. By E. M. L., Deputy. [11]

*United States District Court, Western District of
Washington, Northern Division.*

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

Return to Writ of Habeas Corpus.

To the Honorable Judges of the United States District Court for the Western District of Washington:

That the said Henry M. White, as Commissioner of Immigration at the Port of Seattle, respondent herein, appears by Clay Allen, Esq., United States Attorney for the Western District of Washington, and G. P. Fishburne, Assistant United States Attorney for said District, and in obedience to the Writ of Habeas Corpus heretofore issued in said cause,

produces in court the body of the said Ching Hing, and shows to the Court as follows:

I.

That he denies each and every allegation save and except what is hereinafter specifically admitted.

II.

That he admits from line 12 to 19, inclusive, on page one of the petition, but denies the illegality of the confinement and restraint as set forth from lines 20 to 22, inclusive, on page one; that from line 22 on page one, commencing at the word "that," the last word in said line, to and including the words "Ching Hing to China" in line 8 on page 2, he admits.

III.

That he denies the allegation set forth from line 8 [12] of page two of the petition through to the end of said petition.

IV.

That as affirmative matter he alleges that he, the said Henry M. White, as Commissioner of Immigration aforesaid, holds the said Ching Hing as an alien immigrant under an order of deportation to the Empire of China, of which the said Ching Hing is a native citizen, and from which he came to the United States, arriving at the Port of Seattle on the steamship "Protesilaus" on the 5th day of August, 1914; that the said Ching Hing upon his arrival at said port applied for admission into the United States on the ground of being the minor son of a domiciled merchant of New York City, that thereupon a hearing was had before the respondent as Commissioner of Immigration upon evidence both oral and documentary

duly offered in said matter; that the respondent herein as such Commissioner of Immigration duly considered said evidence so offered and thereupon the application of said Ching Hing for admission into the United States was denied and he was ordered returned to China; that the said Ching Hing thereupon appealed from the said decision of the said Commissioner to the Secretary of the Department of Labor and the said Secretary after due consideration of said appeal affirmed the decision of said Commissioner of Immigration in the manner provided by law; that the record and decision and exhibits both on the hearing before the said Commissioner and on appeal to the Secretary of Labor are hereto attached, marked exhibit "A" and made a part of this return.

Wherefore, respondent asks that the Writ of Habeas Corpus [13] herein be discharged and the petition dismissed.

HENRY M. WHITE,
Commissioner of Immigration.

Assistant United States Attorney.

The United States of America,
Western District of Washington,
Northern Division,—ss.

Henry M. White, being first duly sworn on oath, deposes and says: That he is the Commissioner of Immigration at the Port of Seattle and respondent in the above-entitled action; that he has read the foregoing return to the Writ of Habeas Corpus herein, knows the contents thereof and that the same

is true as he verily believes.

HENRY M. WHITE.

Subscribed and sworn to before me this 16th day of
October, 1914.

S. E. LEITCH,
Deputy Clerk, U. S. Dist. Court, Western Dist. of
Washington.

[Indorsed]: Return to Writ of Habeas Corpus.
Filed in the U. S. District Court, Western Dist. of
Washington, Northern Division, Oct. 16, 1914.
Frank L. Crosby, Clerk. By E. M. L., Deputy.
[14]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

**Stipulation [Allowing Filing of Further Amended
Petition].**

It is hereby agreed and stipulated by and between
John J. Sullivan, attorney for petitioner Ching
Hing, and Clay Allen and George B. Fishburne,
United States District Attorney and Assistant
United States District Attorney for the United
States Government, that the petitioner, by and
through his attorney John J. Sullivan may file a fur-
ther amended petition in the above-entitled case.

Dated this 23d day of January, 1915.

CLAY ALLEN,

G. P. FISHBURNE,

Attorneys for United States Government.

JOHN J. SULLIVAN,

Attorney for Petitioner Ching Hing.

[Indorsed]: Stipulation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Jan. 25, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [15]

*In the District Court of the United States for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

**Further Amended Petition of Ching Hing, by and
Through His Attorney, John J. Sullivan.**

Comes now John J. Sullivan, as attorney for and in behalf of Ching Hing, an alien, a subject of the Emperor of China, and a son of Chin Shew, merchant of New York City, and respectfully makes this application for a Writ of Habeas Corpus, and alleges as follows:

I.

That said Ching Hing is imprisoned and restrained of his liberty by the United States Commissioner of Immigration White and the United States Chinese Inspector Henry Monroe, or by person or persons acting through, by or under them, and that said

Ching Hing is imprisoned at the Detention House at the Immigration Station in the City of Seattle, under the charge that the said Ching Hing had no lawful right to be admitted into the United States, and that he should be deported according to law, and your petitioner further informs the Honorable Court that said imprisonment, confinement and restraint and Order of Deportation is illegal and arises from the following facts, to wit: That Ching Hing arrived at the Port of Seattle on a voyage from China on the 5th day of August, 1914, and said Ching Hing was denied admittance into the United States on the ground that he was not legally entitled to be admitted therein; that said Ching Hing was given a hearing by the Immigration Officials and upon evidence being presented on August 27, 1914, an order was issued by the Commissioner of Immigration at Seattle, finding that said [16] Ching Hing was not entitled to admission to the United States and that he should be deported; that an appeal was given by said Ching Hing, through his attorneys Stadden & Stewart, of Washington, D. C., to the Secretary of Labor, and that on September 26, 1914, the said Order of Deportation and said finding of Commissioner of Immigration of Seattle, Washington, was affirmed and said Ching Hing ordered deported.

II.

This petitioner is informed and believes and so states the fact to be that said Commissioner of Immigration White, in charge of the District of Washington, and said Chinese Inspector Henry Monroe, or officials or agents acting by, under or through them,

or for the United States Government, are about to deport and return the said Ching Hing to China, in violation of the treaty relations between the United States and China, and in violation of the laws and statutes of the United States relating to the Chinese Exclusion Act, and in violation of the laws relating to the acts and powers of the Secretary of Labor and the Assistant Secretary of Labor, in that said Ching Hing is being deprived of his liberty without due process of law and without being given a fair hearing by said Commissioner of Immigration White and said Chinese Inspector Henry Monroe, or officials acting by, under or through or for the United States Government.

III.

Your petitioner further alleges that the right of appeal from said finding of Commissioner of Immigration White and Chinese Inspector Henry Monroe, or officials acting by, under or through them or for the United States Government in and for the District of Washington, by the statutes in such cases made and provided for in relation to the Chinese Exclusion Laws, has been violated and that his full rights have not been accorded to your petitioner Ching Hing in this: That W. B. Wilson is the Secretary of Labor and that Louis Post is his only Assistant Secretary of Labor; that both of [17] said officials, as your petitioner alleges upon information and belief, and knows to be the fact, were at their respective offices in the capitol at Washington, doing the duties imposed upon them on the day that the said appeal of Ching Hing was considered, and that upon

said day and at said time that the appeal of the said Ching Hing to the Secretary of Labor, from the decision denying the right of entry to the United States of Ching *Hin*, came up for hearing and consideration, that said Secretary of Labor and the Assistant Secretary of Labor were then and there present in their respective offices, and that the said Secretary of Labor or Assistant Secretary of Labor, under the statutes, should have considered and determined the said appeal of Ching Hing from the said adverse decision of the said Commissioner of Immigration and Chinese Inspector Henry Monroe, but that said Secretary of Labor and Assistant Secretary of Labor failed, neglected or refused so to do, and hence the said Ching Hing has been denied his right of appeal.

IV.

Your petitioner further alleges that one J. B. Densmore is the Solicitor of the Department of Labor, and further alleges that said J. B. Densmore attempted to perform the duties of the Secretary of Labor or Assistant Secretary of Labor while they were present in their respective offices, and the order of the President of the United States, with due respect thereto, does not authorize said J. B. Densmore, or such Solicitor of the Department of Labor to perform the duties of the Secretary of Labor or the Assistant Secretary of Labor, save and except in their absence, and therefore the action of said J. B. Densmore in claiming to be acting Secretary of Labor during the presence of said officials then and there, is a usurpation of the duties imposed upon the said Secretary of the Department of Labor and the

said Assistant Secretary of Labor, by Congress, and the said J. B. Densmore, in assuming the duties of the said Secretary of Labor and the Assistant Secretary [18] of Labor and affirming the finding of the Commissioner of Immigration at Seattle, Washington, and the Chinese Inspector, Henry Monroe, in relation to the case of Ching Hing, exceeded the statute, and his action in sustaining the adverse decision in relation to the right of entry of Ching Hing into the United States, is null and the said Ching Hing has been denied the right of appeal as provided by the statutes in such cases.

V.

Your petitioner further states that he had not had a fair and impartial trial before the Inspector in charge of Immigration in Seattle, Washington; that there is no evidence in the records to sustain the Department's Exclusion and Deportation Order; that your petitioner Ching Hing, after the Department had illegally ordered his exclusion from entry to the United States and his deportation therefrom without any authority or law, to wit, by the illegal act of said Solicitor J. B. Densmore, who had no authority to order said deportation, was denied a fair and impartial trial in accordance with law, and that said petitioner was denied the right of having his counsel, Corry M. Stadden, appear before the Commissioner-General of Immigration, or the lawful Acting Secretary of Labor after said Petitioner Ching Hing had appealed from the said illegal act of said solicitor, J. B. Densmore, or after said appeal had reached the Department of Labor, in order

that said counsel might present the case to the said Commissioner-General of Immigration, or the lawful acting Secretary of Labor, and bringing to the attention of said officials the said illegal act of said solicitor J. B. Densmore, and place certain evidence before said officials which would warrant a reversal of said order of exclusion and deportation, or would warrant their consideration of the appeal of your petitioner.

WHEREFORE, Your petitioner prays that this Court find that he has not been accorded the rights and privileges allowed by the [19] Constitution of the United States, and by the treaty between the United States and China, and that he be discharged and allowed to join his father who is a merchant in New York City.

Dated this 22d day of Jan., 1915.

JOHN. J. SULLIVAN,
Attorney for Petitioner Ching Hing.

State of Washington,
County of King,—ss.

John J. Sullivan, being first duly sworn, on oath deposes and says: That he is the attorney for the petitioner Ching Hing; that he has read the foregoing further amended petition, knows the contents thereof, and that the same is true of his own knowledge; that those facts which he does not know of his own knowledge, he alleges upon information and belief to be true.

JOHN J. SULLIVAN.

Subscribed and sworn to before me this 22d day of Jan., 1915.

[Seal] ADAM BEELER,
Notary Public in and for the State of Washington,
Residing at Seattle.

[Indorsed]: Further Amended Petition of Ching Hing. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Jan. 25, 1915. Frank L. Crosby, Clerk. By E.M.L., Deputy. [20]

*United States District Court, Western District of
Washington, Northern Division.*

No. 2857.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

**Return to Amended Petition for Writ of Habeas
Corpus.**

Comes now the respondent and as a return to the amended petition herein, alleges as follows:

I.

That he denies each and every allegation thereof save and except what is hereinafter especially admitted.

II.

That he admits the allegations of paragraph I thereof through line 21.

That he denies the allegations of said paragraph I from line 22 to line 24, both inclusive.

That he admits the allegations of said paragraph I from line 25 on page 1 to and including line 7 on page 2.

III.

That he denies all the other allegations of said petition.

That as affirmative matter he alleges that he, the said Henry M. White, as Commissioner of Immigration aforesaid, holds the said Ching Hing as an alien immigrant under an order of deportation to the Empire of China, of which the said Ching Hing is a native citizen, and from which he came to the United States, arriving at the Port of Seattle on the steamship "Protesilaus" on the 5th day of August, 1914; that the said Ching Hing upon his arrival at said port applied for admission into the United States on the ground [21] of being the minor son of a domiciled merchant of New York City; that thereupon a hearing was had before the respondent as Commissioner of Immigration upon evidence both oral and documentary duly offered in said matter; that the respondent herein as such Commissioner of Immigration duly considered said evidence so offered and thereupon the application of said Ching Hing for admission into the United States was denied and he was ordered returned to China; that the said Ching Hing thereupon appealed from the said decision of the said Commissioner to the Secretary of the Department of Labor and the said Secretary after due consideration of said appeal affirmed the decision of said Commissioner of Immigration in the manner provided by law; that the record and decision and exhibits both on the hearing before the said Commissioner and on appeal to the Secretary of Labor are hereto attached, marked

exhibit "A" and made a part of this return.

HENRY M. WHITE,
Commissioner of Immigration.

Assistant United States Attorney.

The United States of America,
Western District of Washington,
Northern Division.

Henry M. White, being first duly sworn, on oath deposes and says: That he is the Commissioner of Immigration at the Port of Seattle and respondent in the above-entitled action; that he has read the foregoing return to amended petition for Writ of Habeas Corpus herein, knows the contents thereof and that the same is true as he verily believes.

HENRY M. WHITE. [22]

Subscribed and sworn to before me this 26th day of April, 1915.

[Seal] ED M. LAKIN,
Deputy Clerk, U. S. Dist. Court, Western Dist. of
Washington.

[Indorsed]: Return to Amended Petition for Writ of Habeas Corpus. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Apr. 26, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [23]

*United States District Court, Western District of
Washington, Northern Division.*

No. 2857.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

Reply to Return to Writ of Habeas Corpus.

Come now John J. Sullivan, as attorney for petition of Chin Hing, and in reply to the affirmative matter set up in the return to Writ of Habeas Corpus, admits the allegations therein up to and including the word "China" in line 20, and denies each and every allegation thereafter.

Wherefore, petitioner prays that he be discharged.

JOHN J. SULLIVAN,

Atty. for Petitioner.

The United States of America,
Western District of Washington,
Northern Division,—ss.

John J. Sullivan, being first duly sworn on oath, deposes and says: That he is attorney for the petitioner herein; that he has read the foregoing reply to the return to the Writ of *Habeas*, knows the contents thereof, and believes the same to be true.

JOHN J. SULLIVAN.

Subscribed and sworn to before me this 10th day of April, 1915.

[Seal]

ADAM BEELER.

Copy of within Reply and Return to Writ of Habeas Corpus received and due service of same ac-

knowledgeed this 21st day of April, 1915.

WINTER S. MARTIN,
Attorney for Asst. U. S. Atty.

[Indorsed]: Reply to Return to Writ of Habeas Corpus. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Apr. 21, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy [24]

*In the District Court of the United States for the
Western District of Washington, Northern Division.*

No. 2857.

In the Matter of CHING HING.

**Stipulation [to Take Deposition of Louis F. Post and
Corry M. Stadden].**

It is hereby stipulated by and between Beeler & Sullivan, attorneys for the petitioner, Ching Hing, and George P. Fishburne, Assistant District U. S. Attorney, attorney for the United States Government and for the Commissioner of Immigration White, that a deposition be taken before Thomas G. Lewis, attorney and notary public, Commercial Bank Building, Washington, D. C., and that Louis F. Post, Assistant Secretary of the Department of Labor, and Corry M. Stadden, both of Washington, D. C., then and there give testimony on a subpoena issued out of this court to said parties to answer the interrogatories herein made a part of this stipulation or additional interrogatories of respondent.

Dated at Seattle, Washington, October 20, 1914.

BEELER & SULLIVAN,

G. P. FISHBURNE,

Asst. U. S. Attorney.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Oct. 20, 1914. Frank L. Crosby, Clerk. By E. M. L., Deputy. [25]

Plaintiff's Exhibit No. 2 [Opinion of Supreme Court of the District of Columbia].

Feb. 16, 1915.

In the Supreme Court of the District of Columbia.
In the Matter of CHING HING.

OPINION OF THE COURT.

The question raised in this case grows out of a rule issued by this Court, returnable November 14, 1914, directed to Louis F. Post, Assistant Secretary of Labor, requiring him to show cause why he should not answer certain questions propounded to him by one Thomas G. Lewis, under a commission to take the testimony of said Post issued by the Honorable Jeremiah Neterer, Judge of the District Court of the United States for the Western District of Washington. The first and material question which the witness refused to answer was:

“2. Were you on duty at the Department of Labor on each of the following dates: September 24, 1914, September 25, 1914, and September 26, 1914?”

The return shows that the witness refused to answer on the following ground:

“That question relates to the internal administration of the Department, and I regard it as calling for an answer that might be prejudicial to the public interest. For this reason I decline to answer until otherwise instructed by the Secretary of Labor.”

The litigation in the United States Court in Washington from which the commission issued was based on a petition for Habeas Corpus filed by one Ching Hing, who was detained by the Immigration officers of the District of Washington under an order of deportation which had been confirmed on appeal to the Secretary of Labor. His petition further alleges that his appeal was not heard by the Secretary of Labor or by the Assistant Secretary of Labor, who were at [26] their respective offices in Washington, and that thus he has been deprived of his liberty without due process of law. It appears from the brief in behalf of the Commissioner that the order of exclusion or deportation on appeal was signed by one J. B. Densmore as “Acting Secretary of Labor.”

Section 25, of the Immigration Act of February 20, 1907 (34 Stat. pp. 898, 906) provides in part as follows:

“Provided, that in every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of the appropriate Immigration officers, if adverse to the admission of such alien, shall be final unless reversed on appeal to the Secretary of Commerce and Labor.”

Under Rule 5 of the “Regulations Governing Ad-

mission of Chinese" the Chinese applicant if adjudged to be inadmissible, "shall be advised of his right of appeal to the Secretary of Labor," and (c) "the notice of appeal shall act as a stay upon the disposal of the applicant until a final decision is rendered by the Secretary of Labor."

Section 179, R. S. U. S. reads as follows: "In any of the cases mentioned in the two preceding sections the President may, in his discretion, authorize and direct the head of any other department or any other officer in either department, whose appointment is vested in the President, to perform the duties of the vacant office until a successor is appointed, or the sickness or absence of the incumbent shall cease."

Under this section, the following Executive order (No. 1783) was issued by the President:

"Pursuant to the authority contained in Section 179 of the Revised Statutes, I hereby authorize and direct John B. Densmore, Solicitor of the Department of Labor, to perform the duties of Secretary of Labor, during the absence of the Secretary of Labor and [27] the Assistant Secretary of Labor." June 5, 1913.

It will therefore be seen that the question propounded to the witness Post, which he declined to answer, goes to the jurisdiction of the officer who assumed to act as Secretary of Labor in signing the mandate, or order of exclusion, under which Ching Hing is detained.

As stated by Judge Dooling of the United States District Court for the Northern District of California in the case of *In re Tsuie Shee, et al.*, on Oc-

tober 23, 1914: "The appellants were by law entitled to appeal to the Secretary of Labor, and entitled to have their appeal heard and determined by him except as above stated, and the determination of their appeal by another not authorized is neither a fair hearing, nor due process of law."

Briefly stated, the question asked respondent was whether or not he was on duty in the Department on three named days. Upon his answer, to an extent, depends the liberty of Ching Hing. He declines to answer because the answer "might be prejudicial to the public interest." In exactly what manner it might be "prejudicial to the public interest" for any official to testify as to whether he was, at a given time, performing the duties charged upon him by law and for which he was being paid at public expense, when the fact becomes important in a judicial investigation affecting the liberty of an individual—even a Chinaman—is not apparent on this record. In the instant case, upon the record before the Court, it is impossible to find any prejudice to the public interest in requiring an answer to the question propounded.

This case is differentiated from *Brooke v. Covington*, 177 U. S. 459, where the information sought of the Collector of Internal Revenue was prohibited by a regulation of the Secretary of the Treasury made under authority of law and for the purpose of making more efficient the Internal Revenue Service, and also from such cases as [28] *Gody v. Pentland*, 85 Pa. 22, in which public officials are protected in their refusal to produce records on grounds

of public policy. Here the question of the public policy involved in the answer sought is as capable of being decided by the Court as by the Executive official, because apparently all the information surrounding the alleged privilege of respondent *in* before the Court. And upon this information, the Court is of the opinion that it is the duty of respondent to answer the question put to him. An analagous situation might be supposed if the judgment of a Court against a citizen was questioned because of the lack of jurisdiction in the Court to render the judgment, and the Court should refuse to permit an investigation as to the fact of such jurisdiction. If the Department of Labor has acted without authority, and an individual has been denied his liberty as a result of such action, it is most extraordinary for the Department to assert that public policy requires a concealment of the truth in regard to such lack of authority. Indeed, if the Department *had* authority to act, and that authority were questioned in a proper judicial proceeding by a Court having jurisdiction of the matter, it would seem reasonable that the request due by one coordinate branch of the Government to another would discountenance a concealment of the facts upon which the Department acted.

An order will be signed requiring the respondent to answer.

GOULD,
Justice.

[Indorsed]: Case No. 285. Plaintiff's Exhibit 2.
United States District Court, Western Dist. of

Washington, U. S. vs. Ching Hing. Filed Apl. 26, 1915. [29]

*United States District Court, Western District of
Washington, Northern Division.*

No. 2857.

In the Matter of Application of CHING HING for
a Writ of Habeas Corpus.

**Petition [to Vacate Order to Take Depositions and
to Deny Petition for Writ of Habeas Corpus].**

Comes now G. P. Fishburne, Assistant United States Attorney for the Western District of Washington, and requests the court as follows:

That the order to take depositions in the above-entitled action entered and filed on the 20th day of October, 1914, be vacated and set aside on the ground that on November 13, 1914, the Secretary of Labor himself personally reviewed the record and affirmed the decision of the Commissioner of Immigration at Seattle, excluding the applicant Ching Hing; and that the depositions were ordered taken for the purpose of showing that the decision was made by J. D. Densmore, the Solicitor of the Department of Labor, as Acting Secretary, while the Secretary and his assistant were present in the office, and further that J. D. Densmore could examine the appeal and assist the Secretary to arrive at his decision.

Wherefore, the question being now moot, the Respondent prays that the order be vacated and set aside and that the petition for a Writ of Habeas Corpus herein be denied.

Dated this 5th day of April, 1915.

CLAY ALLEN,
U. S. Atty.

G. P. FISHBURNE,
Assistant U. S. Atty. [30]

Received a copy of the within petition this 5th day of April, 1915.

BEELER & SULLIVAN,
Attorneys for Petitioner.

[Indorsed]: Petition. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Apr. 5, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [31]

*United States District Court, Western District of
Washington, Northern Division.*

No. 2857.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

Answer to Petition [of G. P. Fishburne].

Comes now John J. Sullivan, attorney for the petitioner, Ching Hing, in answer to the petition of G. P. Fishburne, Assistant United States Attorney for the Western District of Washington, and states, alleges and answers as follows:

That the matter therein set up by said G. P. Fishburne, is outside the record and cannot be reviewed or taken *connisance* of by this Court, for the reason that if said Secretary of Labor did review the record and affirm the decision of the Commissioner of Immigration, in relation to the above-entitled case on

November 13, 1914, that the same was done while this Court had jurisdiction of the subject matter and of the petitioner herein and after a rule to show cause had been served upon Lewis F. Post, Assistant Secretary of Labor under seal of the Supreme Court of the District of Columbia, Honorable Ashley M. Gould, Justice, to show cause why he should not be directed to make full and direct response to interrogations propounded under a stipulation issued by Honorable Jeremiah Neterer, Judge of this Court, authorizing Thomas G. Lewis, Commissioner, to take said depositions; and in further answer, Ching Hing, through his attorney, respectfully informs the Court that no opportunity was given, counsel informing him when said alleged hearing was had, or that he be given permission to appear before the Honorable Secretary and present argument in behalf of said alien and petitioner, Ching Hing; and that the said action of the Secretary, if there was such an action, was arbitrary and contrary to law and oversteps the due procedure of this Court. [32]

Wherefore, Ching Hing, through his attorney, John J. Sullivan, respectfully prays that the petition of G. P. Fishburne, Assistant United States Attorney, be denied, and this Court proceed to hear the Writ upon its merits, after the determination of the Supreme Court in and for the District of Columbia, on the question now pending before Honorable Justice Ashley M. Gould.

BEELER & SULLIVAN,
Attys. for Petitioner, Ching Hing.

The United States of America,
Western District of Washington,
Northern Division,—ss.

John J. Sullivan, being first duly sworn on oath, deposes and says: That he is attorney for the petitioner herein; that he has read the foregoing Answer to Petition, knows the contents thereof, and believes the same to be true.

JOHN J. SULLIVAN.

Subscribed and sworn to before me this 21 day of April, 1915.

[Seal]

ADAM BEELER. [33]

*United States District Court, Western District of
Washington, Northern Division.*

No. 2875.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

Memorandum Brief.

It would seem that very little need be said in answer to the Government's contention that your Honor should grant the petition of said counsel and dismiss the application of the petitioner, Ching Hing, for to do so at the present status of the case, would seem, in my humble opinion, to destroy and usurp the dignity of this Court by giving the right to an official of a department to supersede the jurisdiction of your Honor in determining this case upon the facts as the record shows at the time this appli-

cation was filed and return made therein.

The issue as it presents itself at this time, must be the same issue according to law, as presented itself at that time, and counsel has no right to read into the record any outside action not taken under the order or permission of this Court who had, and still has absolute jurisdiction over the subject matter and the person.

The petitioner alleged that he was illegally detained in that J. B. Densmore acted without authority in signing the order of deportation. The record shows respondent says the petitioner is detained on the order of the Secretary of Labor. This is denied by the petitioner, and the original mandate shows that the order of deportation was signed by J. B. Densmore, Acting Secretary. Respondent then, under my construction of the rules of evidence, must show that Mr. Densmore was Acting Secretary under the order of the Executive, because of the absence of the Secretary and Assistant Secretary, but the petitioner denies that the Secretary and Assistant Secretary *were* [34] *absent*. The burden then is upon the respondent to show that the Secretary and Assistant Secretary were absent when Mr. Densmore signed the deportation order of the petitioner, Ching Hing. I respectfully submit that if respondent, to meet the burden, cannot show that the order of deportation and detention was made by one having authority, the petitioner should be discharged.

There is no presumption of law that the Secretary and Assistant Secretary were absent on September 26th, or that the solicitor, Mr. J. B. Densmore, was

Acting Secretary. It is a question of fact to be proved by the one averring it, and again I submit that where the record shows that J. B. Densmore signed the warrant of deportation, and the Government in its return to the application of this petitioner on the 16th day of October, 1914, states that the Secretary affirmed the order of deportation, that the burden of proof is upon them to show that J. B. Densmore acted with authority.

This same identical question has been passed upon by the Honorable M. T. Dooling, Judge of the District Court of California, First Division, in the case of the Application of Quan Wy Chung, upon behalf of Tsuie Shee, his wife, and Quan Wy You, his son, for a Writ of Habeas Corpus, wherein he held that the appellants and petitioners therein were by Law entitled to appeal to the Secretary of Labor, and were entitled to have their appeal reviewed and determined by him, except in the absence of the Secretary and Assistant Secretary, when the solicitor might act, but if one or both were present, that the solicitor would be acting without authority, if it were proven that he did act; and that the determination of their appeal by the said solicitor, not authorized, is neither a fair hearing, nor due process of Law.

Wherefore, this petitioner, Ching Hing, respectfully submits that if it be proven that the Secretary or Assistant Secretary [35] were present in Washington when J. B. Densmore, solicitor, signed the order of deportation of this petitioner, Ching Hing, that the same was without authority, not due

process of Law, not a fair hearing, and that the petitioner, Ching Hing, should be discharged.

Respectfully submitted,
BEELER & SULLIVAN,
Attorneys for Defendant.

Copy of within Answer and Petition and Memorandum Brief received and due service of same acknowledged this 21st day of April, 1915.

WINTER S. MARTIN,
Assistant U. S. Attorney.

[Indorsed]: Answer to Petition and Memorandum Brief. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Apr. 21, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [36]

[Opinion of U. S. District Court.]

*United States District Court, Western District of
Washington, Northern Division.*

No. 2857.

May 11, 1915.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

BEELER & SULLIVAN, For Applicant.
CLAY ALLEN, U. S. District Attorney,
GEORGE P. FISHBURNE, *Asst. U. S.*, for
Government.

NETERER, District Judge:

The petitioner alleges in substance that he arrived at the Port of Seattle on the 15th of August, 1914, and applied for admission; that he was given

a hearing and examination before the Immigration officers, and on the 27th of August, 1914, an order was issued by the Commissioner of Immigration at Seattle, denying admission and ordering his deportation; that an appeal was prosecuted to the Secretary of Labor, and that on September 26, 1914, the order of deportation was confirmed; that his appeal was determined by J. B. Densmore, the Solicitor of the Department of Labor, and not by the Secretary of Labor, or the Assistant Secretary of Labor, each of whom, at the time of the determination of said appeal, was at his respective office in the City of Washington, and that the determination of his appeal by another not authorized is not a fair hearing and does not accord to him due process of law. By further supplemental or amended petition filed on the 25th day of January, 1915, petitioner states that he was denied the right of counsel to present his appeal before the Secretary of Labor, and was deprived of a fair hearing. A return was made to the writ issued upon the petition, in which it is admitted that the petitioner was ordered to be deported after a fair hearing and a denial that the appeal was not determined by [37] the proper officers, or that any rights have been withheld from the petitioner. Upon the return day it was stipulated between George P. Fishburne, Assistant United States District Attorney, and the attorneys for the petitioner, that the depositions of Lewis F. Post, Assistant Secretary of the Department of Labor, and Cory M. Staden, both of Washington, D. C., should be taken before Thomas G. Lewis, a notary public, of Washington,

D. C. Thereupon the said Thomas G. Lewis was appointed Commissioner to take the depositions of the witnesses named. The witnesses declined to testify because the answer might be prejudicial to the public interest, and a rule was issued by Justice Gould of the Supreme Court of the District of Columbia, returnable November 14, 1914, directed to Lewis F. Post, Assistant Secretary of Labor, requiring him to show cause why he should not answer certain questions propounded to him pursuant to the said Commission. On the 13th day of November, 1914, the Secretary of Commerce and Labor examined the appeal of the petitioner herein and confirmed the decision heretofore rendered by the "Acting Secretary" J. B. Densmore, and the decision and order of deportation of the Commissioner of Immigration. On the 25th of April, a further return was made to the amended petition in which all of the admissions are made as in the original return, and the further statement that the petitioner had appealed from the decision of the Commissioner to the Secretary of the Department of Labor, and that the said Secretary, after due consideration, had confirmed the decision of the Commissioner of Immigration in the manner provided by law. On the 5th of April, 1915, was filed a petition by the Assistant United States District Attorney, requesting that the order entered pursuant to stipulation on the 20th of October, 1914, for the taking of the testimony of Lewis F. Post, Assistant Secretary of Labor, be [38] recalled, for the reason that on the 13th of November, 1914, the Secretary of Labor had personally reviewed the record

and affirmed the decision of the Commissioner of Immigration. Objection is made to this petition, and also to the amended or supplemental return, and it is urged that the Court should not permit to be filed or to consider upon this hearing the decision of the Secretary of Labor rendered since the inauguration of this proceeding but that the matter should be heard and determined upon the record as it existed at the time of the filing of the petition.

I do not think that the position of counsel for the petitioner is tenable. It is highly technical, and would not lead to any conclusion of the rights of the petitioner in this controversy. The petitioner in this case could not hope to be released from custody and permitted to unlawfully enter the United States while his appeal was pending before the Secretary of Labor. If the contention is correct that the "Acting Secretary" was not clothed with authority by reason of the presence of his superiors qualified to act, then the appeal had not been heard and the threatened deportation of the petitioner was simply premature, and the most that the petitioner could hope for would be a delay of the deportation until the proper officer of the department could determine his appeal. The record discloses that the Secretary of Labor did personally determine this appeal and adversely to the petitioner. The Secretary of Labor having acted, the reason for the disclosure sought by the deposition and interrogatories of the Assistant Secretary of Labor is disposed of. There is nothing at issue, and I think the Commission to take the said deposition should be recalled. Courts

are not organized to do idle things, but to determine issues presented, decreeing to the respective parties the rights as law or equity may direct. [39] The entire record now being before the Court, the Court should consider the record now and determine the respective rights of the parties. The Secretary of Labor having personally reviewed the decision of the Commissioner of Immigration, it is unnecessary to examine into the right of the "Acting Secretary" in the premises. The only other matter that remains for determination is the contention that applicant was denied the right of having his counsel appear before the Secretary of Labor for the purpose of presenting such further evidence and oral argument as he desired in support of his appeal, and whether such denial was depriving the petitioner of a fair hearing or of due process of law. No provision of law according to an alien the right of counsel before the Secretary of Labor has been called to my attention; nor do I know of any such provision. Circuit Judge Lacombe, of the Second Circuit, in *U. S. vs. Williams*, 190 fed. 898, says:

"There is nothing in the statute which calls for the presence of counsel at the examination of aliens preliminary to admission; nothing to indicate that it was the intent of Congress that these investigations in hundreds of thousands of cases touching the qualifications of an alien seeking to enter were to be conducted as trials in court, with counsel present to represent the alien, witnesses called to testify, and elaborate examinations and cross-examinations of them."

There is nothing in the rules of the Department in the determination of appeals before the Secretary of Labor which would justify a conclusion that counsel could appear before the Secretary and argue in support of his petition or offer further testimony, as a matter of right. The great volume of business pending in the Department of Labor would make such a practice impossible. Appeals are determined upon the briefs presented, and no opportunity is afforded for argument, unless by special courtesy. From the record in this case, there is nothing to indicate that the petitioner did not have a fair hearing, and [40] that every issue presented was determined by the proper official authorized by law. The Commission to take depositions is recalled.

The Writ is discharged and the petitioner remanded to the custody of the Department of Immigration.

JEREMIAH NETERER,

Judge.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, May 11, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [41]

*United States District Court, Western District of
Washington, Northern Division.*

No. 2857.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

Order Dismissing Writ, etc.

The above-entitled matter having come regularly on for hearing on the 26th day of April, 1915, on the petition for a Writ of Habeas Corpus, the Writ of Habeas Corpus and respondent's return thereto, and the Court having heard the arguments of counsel and being fully advised in the premises, and having filed a written opinion herein;

It is hereby ordered that said writ be, and the same is hereby dismissed, and the petition remanded to the custody of the Commissioner of Immigration.

Dated this 29th day of May, 1915.

JEREMIAH NETERER,
United States District Judge.

To the entry of the above order the petitioner excepts, which exception is hereby allowed.

JEREMIAH NETERER,
United States District Judge.

[Indorsed]: Order Dismissing Writ. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, May 29, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [42]

*In the District Court of the United States for the
Western District of Washington, Northern
Division.*

No. 2857.

In the Matter of the Application of CHING HING
for a Writ of Habeas Corpus.

**Stipulation [as to Respondent's Exhibits "A" and
"B"].**

It is hereby stipulated and agreed by and between the attorneys for the petitioner and respondent herein, that the respondent offers in evidence two exhibits marked respectively "A" and "B," and the petitioner objects thereto on the ground that they are incompetent, irrelevant and immaterial, because the Immigration Department did not have jurisdiction to review the case after the issues were joined before the Court, and the entire record as shown by the Return to the original writ before this Court.

Dated this 26th day of April, 1915.

JOHN J. SULLIVAN,
Attorney for Petitioner.
CLAY ALLEN,
G. P. FISHBURNE,
Attorneys for Respondent.

[Indorsed]: Stipulation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, Apr. 26, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [43]

[Defendant's Exhibit "A" (Part of)—Memorandum
and Digest of Evidence Attached to Appeal
Record In Re Chin Hing.]

Incl. No. 7871.

DEPARTMENT OF COMMERCE AND LABOR.

Washington, November 20, 1914.

I HEREBY CERTIFY That the annexed is a true copy of the original memorandum and accompanying digest of evidence, which were attached to the appeal record in the case of Chin Hing, when said record was submitted to the Acting Secretary of Labor under date of September 22, 1914, and also when the said record was submitted to the Secretary of Labor under date of November 13, 1914, bearing the notations of approval of the Acting Secretary under date of September 25, 1914, and of the Secretary under date of November 13, 1914, on file in the Bureau of Immigration.

A CAMINETTI,
Commissioner-General of Immigration.
(Official Title.)

OFFICE OF THE SECRETARY.

I HEREBY CERTIFY That A. Caminetti who signed the foregoing certificate, is now, and was at the time of signing Commissioner-General of Immigration and that full faith and credit should be given his certification as such.

IN WITNESS WHEREOF, I have hereunto subscribed my name, and caused the seal of the Department of Commerce and Labor to be affixed this 20th

day of November, One thousand nine hundred and fourteen.

[Seal] LOUIS F. POST,
Assistant Secretary of Commerce and Labor. [44]

(Copy)

In re Appeal, Case of CHIN HING, Alleged Minor
Son of Merchant.

MEMORANDUM FOR THE ACTING SECRETARY.

After carefully considering the evidence presented in this record, the Bureau concurs in the excluding decision rendered by the Commissioner at Seattle on the ground that the relationship claimed has not been shown to exist. It also believes that applicant should be denied because the mercantile status of the alleged father is not reasonably established.

It is recommended that the exclusion of applicant is ordered and his deportation directed.

(Signed) F. H. LARNED,
Acting Commissioner-General

9/25/14.

Approved: (Signed) J. B. D., Acting Secretary.

Note: Local counsel, Corry M. Stadden, Esq., requests an opportunity to present an oral argument.

11/13/14

Approved: (Signed) W. B. W., Secretary. [45]

BUREAU OF IMMIGRATION

(Copy)

53817/43

Washington, D. C., September 20, 1914.

DIGEST OF EVIDENCE, CASE OF CHIN
HING.

The applicant in this instance is almost a major, having been 20 years and 8 months old at time of arrival. Nevertheless, he seeks admission by virtue of his minority and the claimed status of his alleged father. The officials at New York and Seattle have conceded the mercantile status of the alleged father, Chin Shew, but the Bureau does not agree with them.

It appears that Chin Shew claimed he has a \$200 interest in the Quong Wo Chong Co., 25 Pell Street, New York City, and is employed there as book-keeper. His assertions are corroborated by the testimony of the manager of said firm and two white witnesses who deal with him in the store conducted by said firm. The officials in New York have known Chin Shew in connection with the business of Quong Wo Chong Co. Admitting the employment of Chin Shew in a mercantile establishing at a salary of \$30 or \$40 a month, it is not believed that his ownership of an interest of \$200 out of a total capitalization of \$11,000 (shown by a prior record, but not stated here) is sufficient to make him a merchant within the meaning of the law. It is also shown by the record that there are 14 active partners out of a total of 68, but the investigating officer failed to report whether they were all engaged in the store and

whether the business was able to support that number of employees. Altogether, the Bureau cannot get away from the impression that Chin Shew's investment in this business was made and is retained for the sole purpose of securing a status that will enable him to bring "sons" to this country. [46]

The evidence on the issue of relationship consists of the statements of Chin Shew, the applicant and a Chinese witness. The particular point urged against the proof by the Commissioner is that Chin Shew has failed to show he was in China at a time to permit of his paternity of a son the age given for applicant. The unsatisfactory testimony of the applicant, though in agreement in most respects with that of the alleged father, and one serious discrepancy which has been overlooked at the port, constitute, in the Bureau's judgment, just as strong a ground for holding that the relationship has not been reasonably established. The discrepancy is with respect to the paternal grandfather, applicant having stated, in effect, that this relative is dead and he has never seen him, while the alleged father said his father died at his home in 1900, which would be within the memory of applicant. Concerning his presence in China at the essential time, the alleged father claimed he left his home in 1893, going to Havana, Cuba; and that he was admitted at New York about December, 1893, as a Section Six merchant. The arrival records fail to verify admission at New York. It is possible that Chin Shew entered this country in the manner claimed, although he has not given the correct date, intentionally or

otherwise, but if he did he was not entitled to admission. The Bureau and department have seen a number of cases of Chinese who were permitted to go in transit through this country to Havana, Cuba, in the early nineties, and who later were erroneously permitted to enter this country from that place by virtue of Section Six certificates issued to them by the Chinese Consul there as merchants of some city in China, and *visaed* by American Consular officers without the investigation contemplated by the law having been made. [47]

Local counsel, Corry M. Stadden, Esq., has requested a re-examination of the New York records in an attempt to verify the landing of Chin Shew in December, 1893. He has given additional names by which this man might have been recorded. In view of what has been said hereinbefore as to the relationship and the mercantile status, there would be nothing gained by withholding decision for the result of another search of the records to show that Chin Shew was admitted in December, 1893, or about that time, since that is not a decisive factor in the case. The request has, accordingly, been denied.

BRIEF filed by counsel is next hereunder. His request that decision be withheld a few days for a report on a re-examination of the records of arrivals at New York should have been withdrawn by counsel in view of the Bureau's denial of his application for a re-examination of said records.

The statement he was not "permitted to see the Finding or Decree upon which the officers at the port denied admission," is intentionally erroneous. The

Commissioner at Seattle designates his excluding decision "order rejecting applicant." Counsel was shown the order in this case on the basis of the Secretary's letter to him in the Yu Sher Suek case (53,817/42). His attention was called to the erroneous nature of his statement, which he declined to change.

The rule of evidence which counsel cites to support his contention that the failure of the alleged father to prove his admission in December, 1893, does not affect the question of paternity, if applicable, would not help him in this instance. The alleged father, not having shown he entered this country from Cuba at the time stated, has not proven he was in China at the essential time to make access possible, so there is no presumption favorable to the claimed relationship. [48]

The alleged father does assert he has been a merchant since entering this country in 1893. It is noted, however, that until about a year ago his interest in the store where he is now employed is said to have been only \$100.

[Indorsed]: Case No. 2857. Part of Defendant's Exhibit "A." United States District Court, Western Dist. of Washington. U. S. vs. Ching Hing. Filed Apl. 26, 1915. ———, Clerk. [49]

[Defendant's Exhibit "B"—Telegram and Letter
Concerning Appeal In Re Chin Hing.]

U. S. DEPARTMENT OF LABOR.

IMMIGRATION SERVICE.

Office of the Commissioner.

Seattle, Wash.

United States of America,
State of Washington,
County of King,—ss.

I, Henry M. White, do hereby certify and declare that I am the United States Commissioner of Immigration in and for the State of Washington, and that as such officer I am the lawful custodian of all papers, correspondence, and records relating to the departure from and return to the United States of persons traveling via any port in said District; that the annexed telegram dated Washington, D. C., November 13, 1914, and signed Larned (Acting Commissioner-General), and letter of November 20, 1914, signed by A. Caminetti, Commissioner-General, concerning the appeal case of Chin Hing, were received in due course of business from the Bureau of Immigration, and are authoritative in all respects covering their subject matter.

Witness my hand and official seal this 8th day of April, 1915.

[Seal]

HENRY M. WHITE,
Commissioner.
HMN. [50]

TELEGRAPH COMMERCIAL TELEGRAM.

38 SF F 44 govt

1241P.

Washington DC Nov. 13-14

Immigration Service.

Seattle Wn.

Secretary has to-day personally reviewed record in case Chin Hing and affirmed your decision excluding said applicant advise United States Attorney and ask him to make proper representations to Court so that writ may be dismissed and deportation effected.

LARNED.

This message phoned at 110 P. to Sargent by F.
[51]

U. S. DEPARTMENT OF LABOR.

BUREAU OF IMMIGRATION.

WASHINGTON.

In answering refer to No. 53817/43.

November 20, 1914.

Commissioner of Immigration,

Seattle, Washington.

In response to your telegram of the 19th instant, the Bureau incloses a certified copy of the memorandum, dated September 22, 1914, and of the digest of evidence in the case of Chin Hing attached to such memorandum, with which the said case was submitted to the Acting Secretary, and on which memorandum the Acting Secretary, under date of September 25, 1914, wrote "approved," signing his initials "J.B.D." Under date of November 13, the said memorandum and digest, together with the entire record, were submitted to the Secretary of Labor,

and after carefully considering the case, he wrote on the memorandum, as you will see from the certified copy, "approved," signing his initials "W.B. W."

As your telegram indicates that what is desired is a certified paper showing the Department's final action, it is believed that the inclosed will serve your purpose, without withdrawing from the Bureau's files the entire record, of which you already possess a complete copy with the exception of the notation on the memorandum of the Secretary's approval.

A. CAMINETTI,

AWP-s.

Commissioner-General.

Incl. No. 7871.

[Indorsed]: Case No. 2857. Defendant's Exhibit "B." United States District Court, Western Dist. of Washington. U. S. vs. Ching Hing. Filed Apl. 26, 1915. ———, Clerk. [52]

No. 5199.

UNITED STATES OF AMERICA.

DEPARTMENT OF STATE.

To All to Whom These Presents Shall Come, Greeting:

I certify that the document hereunto annexed is a true copy from the original in the archives of this Department.

(Executive Order authorizing and directing Mr. John B. Densmore, Solicitor of the Department of Labor, to perform the duties of Secretary of Labor, during the absence of the Secretary of Labor and the Assistant Secretary of Labor—Signed June 5, 1913.)

IN TESTIMONY WHEREOF I, W. J. Bryan, Secretary of State, have hereunto caused the Seal of the Department of State to be affixed and my name subscribed by the chief clerk of the said department, at the City of Washington, this Twenty-eighth day of September, 1914.

[Seal]

W. J. BRYAN,
Secretary of State.
By Ben G. Davis,
Chief Clerk.

[Plaintiff's Exhibit No. 1—Executive Order.]

EXECUTIVE ORDER.

Pursuant to the authority contained in Section 179 of the Revised Statutes, I hereby authorize and direct John B. Densmore, Solicitor of the Department of Labor, to perform the duties of Secretary of Labor during the absence of the Secretary of Labor and the Assistant Secretary of Labor.

WOODROW WILSON.

The White House, June 5, 1913.

(No. 1783.) [53]

[Indorsed]: Case No. 2857. Plaintiff's Exhibit 1. United States District Court, Western Dist. of Washington. U. S. vs. Ching Hing. Filed Apl. 26, 1915. [54]

[Respondent's Exhibit "A"—Record of Department
of Labor.]

U. S. DEPARTMENT OF LABOR.
IMMIGRATION SERVICE.

Immigration File

No. 31992.

Subject: Chin Hing, minor son of merchant, New York, N. Y. No. 44, ex. S. S. "Protesilaus," August 5, 1914. Rejected August 27, 1914. Appealed September 2, 1914. Excluding decision affirmed September 25, 1914. Writ of Habeas Corpus secured Sept. 29th. Exhibit A. [55]

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[Affidavit of Chin Shew.]

COPY.

DEPARTMENT OF LABOR.

In the Matter of the Application of CHIN HING, a Minor Son of a Merchant, to the United States.

(PHOTOGRAPH)
Chin Hing,
taken at Seattle.

State and County of New York,—ss.

Chin Shew, being duly sworn, deposes and says: That he is a Chinese merchant and a *bona fide* member of the mercantile firm of Quong Wo Chong & Co., doing business of buying and selling merchandise at No. 25 Pell Street, in the Borough of Manhattan, City of New York; that he has been such a merchant for a period more than a year last past, during which time he has not been engaged in the performance of any manual labor other than which was necessary for the proper conduct of his business as a merchant.

Deponent further says that he has a minor son, Chin Hing by name, now residing in China, whom he is desirous of bringing to the United States and to join deponent in his business. For the purpose of identification and aiding the entry and admission of said Chin Hing to the United States, deponent has attached hereto his photographic likeness on the left of this application and his son's on the right.

(Signature in Chinese.)

Subscribed and sworn to before me this 8th day of October, 1913.

(Signed) LAWRENCE NAUGHTON. [57]

[Affidavit of Fong Gow Mon.]

COPY.

State, County and City of New York,—ss.

Fong Gow Mon residing in the City of New York, being duly sworn, says; that he is personally and intimately acquainted with Chin Shew and his family; that he recognizes the photograph on the left-hand side of the application hereto attached is that of Chin Shew himself, and the photograph on the right-hand side is that of Chin Hing, son of Chin Shew, whom deponent frequently saw during his last visit to China.

(Chinese signature.)

Subscribed and sworn to before me this 8th day of October, 1913.

(Signed) LAWRENCE NAUGHTON. [58]

[Affidavit of Harry W. Dremus and Joseph J. Hush.]

COPY.

State, County and City of New York,—ss.

The undersigned, being duly and severally sworn, depose and say; that they are persons other than Chinese; that they are personally acquainted with Chin Shew, whose application is hereto annexed; that they know said Chin Shew is a member of the firm of Quong Wo Chong & Company, engaged in buying and selling merchandise at No. 25 Pell Street, in the Borough of Manhattan, City of New York, for more than a year last past, during which time, to the best of deponents' knowledge and belief, said Chin Shew

has not been engaged in the performance of any manual labor other than that which was necessary for the conduct of his business as a merchant; that they recognize the photograph attached to the preceding document on the left-hand side to be the true likeness of said Chin Shew.

HARRY W. DREMUS,
29 Lafayette St.,
N. Y. City.

(Signed) JOSEPH J. HUSH,
585 Washington St.,
N. Y. City.

Subscribed and sworn to before me this 8th day of October, 1913.

(Signed) LAWRENCE NAUGHTON. [59]

[**Examination of Chan Hing at Seattle, Wash.
August 7, 1914.**]

#44, ex S. S. Protesilaus, 8-5-14 No. 31,922.

In the Matter of the Application of CHIN HING
for Admission to the United States as the Minor
Son of an Alleged Domiciled Merchant of New
York City.

Seattle, Washington, August 7, 1914.

Inspector—MANGELS.

Interpreter—ENG NING.

Stenographer—SEIDLE.

DESCRIPTION: Age 20, height 5'-4" scar near left temple, scar near center forehead, pock marks above and between eyebrows, pock marks on nose and chin, scar and two moles right of neck, pock marks back of each hand, rims of ears

flatened and without folds. Destined to New York to join father in the Quong Wo Chong Co., 25 Pell St. Chan Family. Speaks no English.

Applicant sworn, testified as follows:

Q. What are your names?

A. Chan Hing, I am not married and have no other names, I am of the Chan family.

Q. Have you ever been in the United States before or tried to gain admission to this country?

A. No.

Q. How old are you and where were you born?

A. I am 21 years old and was born K. S. 19, 11th month, 11th day, in Chong On Lee village, Hoiping district, China.

Q. Are you 21 years old according to the Chinese way of reckoning?

A. I am 21 years old according to the Chinese way of reckoning.

Q. Have you any sisters or brothers?

A. I have one older brother named Chan Gong, 23 years old. He is now in China and is married. His wife's name is Yung She, natural feet. He has no children.

Q. When did your brother marry? A. S. H. 3.

Q. Did you ever have any sisters or any brothers than Chan Gong? [60]

A. I have two more younger brothers.

Q. Why didn't you mention them right away?

A. I didn't understand what you said.

Q. Give me the names and ages of your younger brothers?

A. Chan Wai 14 years old and Chan Hoy 13 years old.

Q. Have any of your brothers ever attempted to enter the United States? A. No.

Q. Do you know the birthdays of any of your brothers?

A. Chan Wai was born K. S. 26, 5th month, 8th day and Chan Hoy was born K. S. 27, 5th month, 18th day.

Q. Don't you know the birthday of Chan Gong?

A. He was born K. S. 17, 12th month, 12th day.

Q. Who are your parents and where are they?

A. My father's name is Gim Fong now *now* in New York and my mother's name is Woo See, bound feet, 50 years old, from Suey Mon village, Hoiping district. She is now in China.

Q. Are you or are any of your brothers adopted children of Gim Fong? A. No.

Q. How many wives has your father? A. One.

Q. Where is your father in this country and what does he do?

A. He is a merchant of the Quong Wo Chong Company in New York, I don't know the street.

Q. Do you remember ever seeing him?

A. I saw him in China in S. H. 1.

Q. How long did he remain in China then?

A. About a year— My father went to China in K. S. 34 and stayed there until S. H. 1.

Q. What was your father doing while he was in China at that time? A. He did nothing. [61]

Q. What were you and your brothers doing while your father was in China?

A. We were attending school at that time.

Q. Where were you and your brothers going to school at that time?

A. I went to the Chan See Dai Dung ancestral hall in my village. My brothers went to the same school. My teacher was from another village and my younger brothers had a teacher from my village. My elder brother attended school in the back part of the school building but in a higher class. When my father was in China my younger brothers were not attending school.

Q. You stated a moment ago that they went to the same school that you did but that they had a different teacher, did you not? A. I didn't say that.

Q. Did your father know your teacher and your brother Chan Gong's teacher?

A. Yes, my father knew them. My teacher's name was Chan Seow Fun and Chan Gong's teacher's name was Chan Kay Kuk.

Q. Has your father Gim Fong another name?

A. Yes, Chan Sue, Gim Fong is his marriage name.

Q. Who are your father's parents and where are they?

A. My father's father's name is San Jen and I was told by my mother that he died. My father's mother is living, her name is Woo Shee, bound feet, 74 years old. She lives alone in my village.

Q. How far is her house from the one in which you live?

A. There is one house between hers and our house.

Q. Was she living there while your father was last in China? A. Yes.

Q. How large is your grandmother's house?

A. It is a regular five room Chinese house.

Q. She lives alone in a five room house?

A. Yes. [62]

Q. How large is Chung On Lee village?

A. 30 houses altogether and six rows.

Q. Where is your father's father buried?

A. At Ka Seuk Loung a little over 4 lees from my village.

Q. Has your father any sisters or brothers?

A. My father has one younger brother, no sisters, his name is Chan Hong and his marriage name is Guey Fong.

Q. What family has he and where does he live?

A. His wife's name is Soo Hoo Shee, a bound foot woman. He has two boys and one daughter. The boys' names are Che Sing, 13 years old, and Hung Dong, 5 years old. The daughter's name is Ah Seum, 10 years old.

Q. Is that brother of your father's now in China?

A. Yes, he is a farmer in China.

Q. Where does that brother live?

A. He lives in the house between my house and my grandmother's house.

Q. How many houses does your father own in the village?

A. He owns one house, my uncle owns one house and my grandmother owns one house.

Q. Who are your mother's parents and where are they?

A. I don't know my mother's names. I never saw them. They live in Hoy Sin village.

Q. Has your mother any brothers or sisters?

A. No.

Q. Besides your father is there anyone in the United States who you have ever seen in China?

A. I only know Fong Goon who is living in New York but I don't know what he does. I saw him in China in S. H. 3. He came to our village while I was standing at the front of our school. He asked me where the house *of* of Chan Sue's family was and I told him I was his son. He brought \$30 and a letter home to my mother [63] from father. That is how I know him.

Q. Did he go with you to the house at that time?

A. Yes.

Q. Did he see your mother and your three brothers there?

A. He just saw me, my mother and brother Chan Hoy.

Q. Did that man ever come to your house again?

A. No.

Q. Do you know where he lives in China and what family he has?

A. I understand he lives in the Lung Gong village. I have never been there and do not know what family he has.

Q. Did the man deliver the money and letter to you or did he deliver them to your mother when you took him to the house?

A. He delivered them to my mother.

Q. Did he enter your house and take any meals there?

A. He just came into the house for a few minutes but took no meals.

Q. Did he enter the school with you? A. No.

Q. Did he visit any one else in your village?

A. No.

Q. Where were your brothers Chang Gong and

Chan Wai when he called at your house?

A. Chan Wai was in the house, I don't know where Chan Gong was.

Q. I thought you said before that only Chan Hoy was home at that time?

A. No, Chan Hoy was in school at that time and Chan Wai was at home.

Q. How far is Chan See Dai Dung ancestral hall from your house?

A. From here to that building. (Indicating distance of about 50 feet.)

A. Did Fong Goon meet your father's mother or your father's brother or his family while he was in your village? A. No. [64]

Q. Did any incident happen while your father was in China such as a fire, robbery, accident, flood, marriage, birth or death, about which he can be questioned?

A. When father reached our house from America there were robbers entered our house two days after his arrival and robbed us. It was in the night-time but I don't know what they got. They broke in the door.

Q. Do you know if they took anything?

A. Yes, they took lots of things but I don't know what.

Q. Is there any other incident that you remember which happened while your father was in China?

A. The same year my father arrived there was a flood and it flooded our house. The water was a little higher than that door. (Indicating height of 7½ feet.)

Q. How long did the flood last?

A. One or two days.

Q. Whose photograph is this? (Indicating photograph on identification paper.)

A. That is my father and the one beside him is mine.

Q. Have you any further statement to make or any other evidence or testimony to introduce?

A. No.

Q. Have you understood the interpreter well during your examination? A. Yes.

Copy of applicant's signature: (Chinese)

Sig.

Attest: SEIDLE, STENOGRAPHER. [65]

[Reports, August 22, 1914, Inspector Wiley to
Inspector at New York.]

U. S. DEPARTMENT OF LABOR.

IMMIGRATION SERVICE.

Office of Chinese Inspector in Charge District of
New York and New Jersey.

17 State Street, New York, N. Y.

In Answering refer to File No. 2725/80.

August 22, 1914.

Chinese Inspector in Charge,
New York, N. Y.

I return herewith papers in the case of Chin Hing, ex S. S. "Protesilaus," Seattle, August 5, 1914, applying for admission as the minor son of Chin Shew, alleged merchant and member of the firm of Quong Wo Chong & Co., 25 Pell St., this city, and have to report as follows:

I have examined the alleged father, the identifying witness Fong Goon Moon alias Fong Yuen Mon,

the manager of the firm of Quong Wo Chong & Co. and the statutory witnesses, and transcript of the sworn statements is hereto attached. This firm has a well-stocked store at 25 Pell St. and does a considerable business in Chinese merchandise. The statutory witnesses are reputable business men and have gained their knowledge of the mercantile status of Chin Shew through business relations with him as a member of the firm, and I might also state that Chin Shew is known to be *to be* actively engaged in this store. As a partnership list of this firm was filed in this office on May 1st, 1913, in connection with the case of Hor Yin Yee, which is now on file in the Seattle office, and the manager states that no changes have been made in the firm since that time, no list was filed in the present case. The list referred to contains the name of Chin Gim Foon, which is the marriage name of Chin Shew, as an active member of the firm.

A search of the Custom-house records covering admissions of [66] Chinese at this port during the latter part of 1893 was made in an effort to verify the claimed admission of Chin Shew, but they do not disclose that anyone was admitted under that name during that period.

The alleged father and the witness Fong Goon Moon testified in an unhesitating manner and impressed me that they were telling the truth. No material discrepancies appear in their statements.

ALBERT E. WILEY,
Chinese Inspector. [67]

[Examination of Chin Shew at New York, August
17, 1914.]

Office Chinese Inspector,
N. Y. City.

August 17, 1914.

In the Matter of CHIN HING, ex S. S. "Protesilaus," August 5, 1914, Applying for Admission at Seattle was the Minor Son of Chin Shew, Merchant and Member of the Firm of Quong Wo Chong & Co., 25 Pell St., New York City.

A. B. WILEY, Inspector.

LOUIS FONG, Interpreter.

F. J. MASTERSON, Stenographer.

Q. What is your name?

A. Chin Shew. (Sworn.)

Q. What is your occupation?

A. I am the bookkeeper in the firm of Quong Wo Chong, 25 Pell St.

Q. How much interest have you in that firm?

A. Two hundred dollars.

Q. When did you obtain that interest?

A. I invested one hundred dollars at first, and last year the firm was reorganized and I invested another hundred dollars.

Q. What is the total membership of that firm now?

A. 68 members.

Q. What is the total number of active members?

A. Fourteen.

Q. During the past year have you given your entire time to your duties as the bookkeeper of that

firm? A. Yes, sir.

Q. Who are your white witnesses?

A. Charley Hirsch's boy and Mr. Doremus.

Q. Have you ever had any business relations with them as member of the firm?

A. Yes, sir; I give them orders and the manager pays the money.

Q. Prior to becoming a member of that firm what was your occupation?

A. I was a member of the firm of Tuck High & Co.

Q. When did you first come to the United States?
[68]

A. K. S. 19, 7th month, in the first part of the month. (August, 1893.)

Q. How did you enter the United States?

A. I went to Havana, Cuba, and was in business there for a few months, then I came here to New York as a Section 6 merchant.

Q. Do you know the name in which your paper was made out? A. Chin Shew.

Q. Do you know the name of the steamer upon which you came from Havana? A. No.

Q. Upon your arrival in New York what did you do?

A. I arrived in New York, in the 11th month, in the middle part of the month, in K. S. 19 (December, 1893); I made a mistake before. I got to New York about the 20th day of the 11th month (December 27, 1893) and then I went to Philadelphia and joined the firm of Kwong Yuen Chung, 922 Race St. and stayed there until K. S. 25, when I went to China.

Q. What month in K. S. 25 did you leave for China?

A. 6th month, K. S. 25, through San Francisco.

Q. Do you know the name of the steamer upon which you departed? A. "Rio de Janeiro."

Q. What kind of papers did you have?

A. Merchant paper, member of the firm of Kwong Yuen Chung.

Q. How long did you remain in China on that visit?

A. A little over a year, and then returned in K. S. 26.

Q. What month?

A. About the 7th month, on the S. S. "Coptic."

Q. Have you made any other trips to China?

A. After I returned in K. S. 26 I stayed in Philadelphia a little over a year, and then came to New York in K. S. 28 and joined the firm of Tuck High & Co. in K. S. 29. Then I went to China [69] in K. S. 34, 4th month, in the first part of the month, through Malone, New York, and returned to the United States S. T. 1st year. I left China in the 7th month and arrived in New York 8th month, 20th day (October 2, 1909).

Q. Have you been back to China since that time?

A. No, sir.

Q. Have you the certificate upon which you were admitted from Havana?

A. I thought it was not very valuable so it has been mislaid.

Q. Where you born?

A. Chong On Village, Hoy Ping District, China.

Q. What was your father's name? A. Sen Jin.

Q. Is he living?

A. No, he died in K. S. 26.

Q. What is your mother's name? A. Woo She.

Q. Has she natural or bound feet?

A. Bound feet.

Q. Is she living?

A. Yes, she is living in my home village.

Q. What house is she living in?

A. She lives in the same row with me but two houses away.

Q. How large a house has she?

A. Two bedrooms and one parlor and two kitchens and one open court.

Q. Are you married? A. Yes, sir.

Q. What is your wife's name? A. Woo She.

Q. Are her parents living? A. No.

Q. What village did your wife come from? [70]

A. Suey Mun.

Q. Did you ever hear of a village named Hoy Sin?

A. That is my mother's home village.

Q. Your alleged son stated that his mother's parents lived in the Hoy Sin village.

A. I think my boy is mistaken; that is my mother's home village.

Q. Has your wife any brothers or sisters?

A. No.

Q. Have you any brothers or sisters?

A. One younger brother, no sisters.

Q. What is your brother's name?

A. Chan Hong.

Q. What is his marriage name?

A. Guey Fong.

Q. What is his wife's name?

A. Soo Hoo She.

Q. Has she natural or bound feet?

A. Bound feet.

Q. Have they any children?

A. When I was there, two sons and one girl.

Q. What is the name of the oldest son?

A. Chin She Sing.

Q. How old is he at the present time?

A. I think about 12 or 13.

Q. What is the name of the next boy?

A. Chan Hung Gong.

Q. How old is he?

A. About five or six years old.

Q. What is the daughter's name?

A. Ah Suen.

Q. How old is she? [71]

A. About eleven.

Q. What is your brother doing in China?

A. Farming.

Q. Where does he live with reference to your house? A. In back of my house.

Q. In the same row? A. Yes, sir.

Q. Where does he live with reference to your mother's house?

A. He lives between my house and my mother's.

Q. Do you own any other property in that village besides the house in which you live? A. No.

Q. Have you any children?

A. Four sons, no daughters.

Q. Did you ever have a daughter? A. No.

Q. What is the name of the oldest son?

A. Chin Quong, 23.

Q. What was the date of his birth?

A. He was born in K. S. 17, 12th month, 11th day. (January 10, 1892.)

Q. What is the name of your next son?

A. Chin Hing.

Q. What is the date of his birth?

A. K. S. 19, 11th month, 11th day. (December 18, 1893.)

Q. Where were you at the time of his birth?

A. I was in Philadelphia.

Q. How long had you been in the United States prior to his birth?

A. I arrived in Philadelphia in the 11th month, and had a letter from home in the first month of the following year saying that my son was born in China [72]

Q. Do you remember being examined in this office in April, 1908, in connection with your application to have your status preinvestigated?

A. Yes, I remember being examined at that time.

Q. In giving the dates of the births of your children at that time, did you give the ages in American or Chinese reckoning?

A. I made a mistake that time; I should have told the English dates that time.

Q. When you said that your son Chin Hing was 16 years old, did you give *it Chinese* or English?

A. In Chinese.

Q. You told the Chinese dates at that time?

A. Yes, sir.

Q. How old is Chin Hing now, according to American dates? A. 21.

Q. That is, he will be 21 next birthday; is that right? A. Yes.

Q. What is the name of your next son?

A. Chin Wai.

Q. What is the date of his birth?

A. K. S. 27, 5th month, 18th day. (July 3, 1901.)

Q. Are any of your sons married?

A. The oldest is married.

Q. What is his wife's name? A. Yung She.

Q. Has he any children? A. No.

Q. When was he married?

A. S. T. 3, I think in the 6th month.

Q. Have any of your sons ever applied for admission to the United States? [73]

A. Chin Quong applied and was denied.

Q. What is your home village in China?

A. Chong On.

Q. How large is that village?

A. When I was there, about 25 or 26 houses.

Q. How large is it now?

A. I don't know how many houses now.

Q. How many rows? A. Five rows.

Q. Have you heard anything about an additional row being built? A. No.

Q. Where is your father buried?

A. Ka Seuk Leung.

Q. How far is that from your village?

A. About three or four lis away.

Q. Which way does your village face?

A. Southwest.

Q. Where is your house located?

A. Second house.

Q. In which row?

A. First row from the east.

Q. Where is the schoolhouse located?

A. On the east side.

Q. On the left or the right?

A. On the left.

Q. On your last trip to China what were your sons doing? A. Attending school.

Q. Were they all attending the same school?

A. Yes, sir.

Q. What was the name of the school?

A. Chan See Dai Dong; that is an ancestral hall.

[74]

Q. How far is that from your house?

A. About ten feet away.

Q. Do you know the name of the teacher at the time you were in China? A. Chan Kay Yuk.

Q. Was there any other teacher?

A. Chan Seow Fun.

Q. Which one of your boys did Chan Seow Fun teach?

A. Most every boy attends school at his place when they are young, and afterwards they go to Chan Kay Yuk's place.

Q. Did your boys ever attend any other school?

A. I don't know, but I don't think so.

Q. Is there anybody in the United States that knows your son Chin Hing?

A. Yes, Fong Goon Moon.

Q. When did he see your son?

A. When he went to China in S. T. 3d year, he took some money to my family for me.

Q. How much money did he take?

A. Thirty dollars.

Q. Did he take any letter? A. Yes, sir.

Q. When he returned to the United States did he say he had seen your sons? A. Yes.

Q. Where did he say he had seen them?

A. In my house.

Q. Did he bring any letter back to you?

A. Yes, he returned in the 2d year of the Republic and brought a letter.

Q. When you were in China last time, do you remember whether or not there was a flood? [75]

A. Yes.

Q. Did it flood your house? A. Yes.

Q. How high did it come up on the wall?

A. About eight feet.

Q. Do you remember any other incident that happened, such as robbery or fire, while you were in China? A. Yes, someone robbed us.

Q. How long had you been in China before you were robbed? A. About two months.

Q. Your son says it was two days.

A. I arrived in the 7th month and I was robbed in the 8th month.

Q. Did they steal anything?

A. What they stole was worth two or three hundred dollars.

Q. How long did the flood last?

A. I think five or six days.

Q. Do you recognize that photograph? (Photograph of applicant.)

A. That is my son, Chin Hing.

Q. What do you intend to do with him if he is admitted to the United States?

A. I will teach him business.

Witness signed stenographic notes in Chinese:

(Chinese Signature.)

Chinese and Immigrant Inspector. [76]

**[Examination of Fong Goon Moon at New York,
August 17, 1914.]**

Office Chinese Inspector, N. Y. City,
August 17, 1914.

In the Matter of CHIN HING, Applying for Admission at Seattle as the Minor Son of Chin Shew, Merchant and Member of the Firm of Quong Wo Chong & Co., 25 Pell St., New York City.

A. B. WILEY, Inspector.

LOUIS FONG, Interpreter.

F. J. MASTERSON, Stenographer.

Q. What is your name?

A. Fong Goon Moon (or Fong Yuen Mon.)
(Sworn.)

Q. What is your occupation?

A. Member of the firm of Quong Wee Wo & Co., 38 Mott St.

Q. Do you recognize that photograph? (Referring to photograph of alleged father of applicant.)

A. Yes, Chin Shew.

Q. How long have you known him?

A. Five or six years.

Q. Do you know what his home village was in China?

A. Chong On Village, Hoy Ping District.

Q. Do you remember whether or not he is mar-

ried? A. Yes, I know he is married.

Q. What is his wife's name?

A. I don't know what family she belongs to.

Q. Has she natural or bound feet?

A. Bound feet.

Q. Do you know whether or not he has any children? A. I know he has four sons.

Q. Do you know whether or not he has a daughter? A. I don't know.

Q. Did you ever see any of his family?

A. I saw his wife and his second son, Ching Hing, and third son, Chin Wai.

Q. Did you ever see the other two sons? [77]

A. No.

Q. How did you come to see his sons?

A. I went to China in S. T. 3d year and he gave me some money to take home to his family and I saw them there at that time.

Q. Did he give you any letter? A. Yes, sir.

Q. Did you go to Chin Shew's house, A. Yes.

Q. Did you go in? A. Yes.

Q. Did you have any meals in the house?

A. No, sir.

Q. How long did you stay?

A. About ten minutes.

Q. Did you sit down?

A. Just a little while.

Q. Did you have a cup of tea? A. Yes.

Q. How did you know where he lived?

A. I inquired and found his son.

Q. Where did you find his son?

A. In front of the ancestral hall.

Q. Which son was that you found?

A. Chin Hing.

Q. Did you bring any letter back to Chin Shew?

A. Yes, sir, before I returned I asked his son if he had any letter to bring back, and he gave me a letter.

Q. Did you make a second visit to the village on that occasion?

A. He gave me the letter at the market.

Q. What market was that? [78]

A. Hong How Kew.

Q. How long was that before you returned?

A. A few days.

Q. Upon what kind of papers did you depart from the United States on that trip?

A. Merchant's paper, member of the firm of Quong Yee Wo & Co.

Q. That is your paper, is it not?

A. Yes, that is my paper. (Referring to application paper showing that witness, under the name Fong Yuen Mon, departed from the United States via Vancouver about October or November, 1911, and returned to the United States via Vancouver December 6, 1912.)

(Chinese Signature.)

Witness signed stenographic notes:

ALBERT B. WILEY,

Chinese and Immigrant Inspector. [79]

**[Examination of Chin Wee Dong at New York,
August 17, 1914.]**

Office Chinese Inspector, N. Y. City,
August 17, 1914.

In the Matter of CHIN HING, Applying for Admission at Seattle as the Minor Son of Chin Shew, Merchant and Member of the Firm of Quong Wo Chong & Co., 25 Pell St., New York City.

A. B. WILEY, Inspector.

LOUIS FONG, Interpreter.

F. J. MASTERSON, Stenographer.

Q. What is your name?

A. Chin Wee Dong. (Sworn.)

Q. You were examined in this office in connection with the application of Hor Yin Yee to have his status determined as that of a merchant and member of the firm of Quong Wo Chong & Co. on July 15, 1914?

A. Yes, sir.

Q. At that time you filed a copartnership list of the members of the firm which I show you. (Showing copy of partnership list forwarded to Seattle office in connection with case of Hor Yin Yee.)

A. Yes, sir.

Q. Have there been any changes in the firm since that time?

A. No.

Q. Do you recognize that photograph? (Referring to photograph of alleged father of applicant.)

A. Chin Shew.

Q. Is he a member of your firm?

A. Yes.

Q. How much interest has he in the firm?

A. Two hundred dollars.

Q. When did he obtain his interest in the firm?

A. He invested one hundred dollars in S. T. 3d year, and then another hundred dollars last year.

Q. What is his position in the firm? [80]

A. Bookkeeper.

Q. During the past year has he given his entire time to his duties in that firm? A. Yes, sir.

Q. From whom do you buy your paper?

A. I know the person but I don't know his name.

Q. Do you know his first name? A. No.

Q. Did you ever hear of a person by the name of Harry W. Doremus?

A. I don't know his name but I know the person.

Q. Who do you buy your line from?

A. Mr. Hirsch.

Witness signed stenographic notes:

(Chinese signature.)

ALBERT B. WILEY,

Chinese and Immigrant Inspector. [81]

**[Examination of Joseph J. Hirsch at New York,
August 17, 1914.]**

Office Chinese Inspector, N. Y. City,

August 17, 1914.

In the Matter of CHIN HING, Applying for Admission at Seattle as the Minor Son of Chin Shew, Merchant and Member of the Firm of Quong Wo Chong & Co., 25 Pell St., New York City.

A. B. WILEY, Inspector.

F. J. MASTERSON, Stenographer.

Q. What is your name?

A. Joseph J. Hirsch. (Sworn.)

Q. What is your business, Mr. Hirsch?

A. Salesman for Chas. L. Hirsch & Co., grocery specialties.

Q. Do you recognize that photograph? (Referring to photograph of Chin Shew.)

A. Yes, Chin Shew.

Q. What is his occupation?

A. He is one of the proprietors at 25 Pell St., Quong Wo Chong & Co.

Q. How long have you known him in connection with that firm? A. Over two years.

Q. During the time that you have known him, have you ever had any business relations with him as a member of that firm? A. Yes, sir.

Q. What has been the nature of those relations?

A. He has paid me money.

Q. How often during the past year on an average have you visited that store? A. Once a week.

Q. Do you generally see this man in the store?

A. Yes, sir.

Q. What appear to be his duties?

A. He appears to be manager of the place, and the bookkeeper.

Q. Are you satisfied that during the past year he has performed no manual labor other than required of him as a merchant? A. Yes, sir. [82]

Q. He hasn't worked in a laundry or restaurant or anything of that sort during the year? A. No.

ALBERT B. WILEY,
Chinese and Immigrant Inspector.

[**Examination of Harry W. Doremus at New York,
August 18, 1914.**]

Office Chinese Inspector, N. Y. City.

August 18, 1914.

In the Matter of CHIN HING, Applying for Admission at Seattle as the Minor Son of Chin Shew, Alleged Merchant and Member of the Firm of Quong Wo Chong & Co., 25 Pell St., New York City.

H. R. SISSON,

Inspector and Stenographer.

Q. What is your name?

A. Harry W. Doremus. (Sworn.)

Q. What is your business?

A. Member of the firm of Chas. F. Hubbs & Co., 383 Lafayette St., dealers and manufacturers of paper and twines.

Q. Do you recognize that photograph? (Referring to photograph of Chin Shew.)

A. Yes, that is Chin Shew.

Q. What is his business?

A. He is a member of the firm of Quong Wo Chong & Co., 25 Pell St., dealers in Chinese general merchandise, etc. He is the bookkeeper and cashier.

Q. How long have you known him?

A. Three or four years.

Q. During the past year how frequently have you visited their place *place* of business?

A. An average of about once a week.

Q. Did you generally find this man in the store?

A. Yes.

Q. Have you ever had any business dealings with him in which he [83] represented the firm?

A. Yes, he has paid me bills and consulted relative to orders, etc. I know him well.

Q. Do you think it would have been possible for him to have performed any manual labor outside of that store during the past year without your having known it?

A. I don't think it would have been possible.

Q. You are satisfied he is a *bona fide* merchant?

A. Yes.

Chinese and Immigrant Inspector.

[Re-examination of Applicant at Seattle, Wash.,
August 26, 1914.]

Case of Chin Hing.

No. 31,992.

Seattle, Washington, August 26, 1914.

Inspector MANGELS,

Interpreter QUAN FOY.

Stenographer SEIDLE.

Re-examination of Applicant.

Q. You stated on your former examination that neither you nor any of your brothers had ever applied for admission to the United States; our records show that a man named Chin Quong applied here for admission as the son of Chin Sue, in 1912; do you not know anything about this?

A. Yes, Chin Quong was deported from this country about the 7th or 8th month Republic 1. You didn't ask me if my brothers had ever been in this country.

Q. How long have you known that you were born in K. S. 19, 11th month, 11th day?

A. My mother told me when I was a small boy.

Q. In what village did you say your mother's parents live?

A. Suey Mon village, but they are both dead now.

Q. Has that village another name? [84]

A. That is the only name I know.

Q. You stated on your former examination that they lived in Hoy Sin village.

A. I meant my father's mother came from Hoy Sin village.

Q. Has your father's father, San Jen, another name? A. Yes, his other name is Ah Deuk.

Q. Do you not know when he died?

A. I don't know; he died when I was a small boy.

Q. Tell me where in your village your house is located.

A. The second house, 1st lane, counting from the left side of the village. The village faces the west.

Q. Is the left side the east, west, north or south side of the village? A. It is the south side.

Q. On what side of the village is the schoolhouse located?

A. The left-hand side or south side of the village.

Q. When Fung Goon Moon returned to the United States, did he bring any message from your mother to your father? A. No.

Q. How do you know he didn't?

A. Because I know.

Q. How long did he stay in your house when he called there as you have stated?

A. Just a few minutes.

Q. Did he take tea? A. I don't remember.

Q. Did you ever see him at any other place than in your home village?

A. Yes, I met him in the Hong How market sometimes.

Q. Did you never give him any letter or message for your father when you met him at the market?
[85] A. Yes, I gave him a letter to my father.

Q. Why didn't you state this a moment ago when I asked whether any message was taken to your father? A. You didn't ask about myself.

Q. What did I ask you?

A. You didn't ask me in the previous examination.

Q. Didn't I ask you a few moments ago whether Fung Goon Moon had brought any messages from your mother to your father in this county?

A. Yes.

Q. Why didn't you tell me about sending a letter?

A. I misunderstood you.

Q. According to the testimony Ching Quong gave in May, 1912, at his office, your brothers would be 15 and 14 years old, respectively, instead of 14 and 13 years old, as you state; can you explain this difference?

A. One is 14 and one is 15 years old; I made a mistake. Chin Hoy is 14 and Chin Wae is 15 years old.

Q. Is that according to the Chinese count?

A. I don't know, all I know one is 14 and one is 15.

Q. From what village does your elder brother's wife come? A. I don't know.

Q. Do you know a person in your village named Yee Hing?

A. No, I don't know any name like that.

Q. Do you know where the Kah Low Ay hill is?

A. Yes, it is about four or five lees from my village.

Q. Do you know anybody that is buried there, or ever was buried there?

A. Yes, my father's father was buried in that place, but has been moved to the Kee Seuk Leung hill.

Q. Do you know a man who is now in this country named Quong Que, who visited China a few years ago? [86] A. No.

Q. Do you know who lives in the 1st house, 1st row in your village? A. Yee Hin lives there.

Q. I asked you before if you knew that man and you stated that you did not.

A. I thought you said Yee Hing.

Q. What family has he?

A. Two boys and three girls. The boys' names are Ah Fong a little over 20 years old and Ah Jow something over ten years old. The girls' names are Ah May, married, Ah Sue something over 10 years old and Ah Yung a few years old.

Q. When did your elder brother quit school?

A. I don't know how many years ago.

Q. Have you anything further to state?

A. No.

Q. Have you understood the interpreter well?

A. Yes.

Attest: F. O. SEIDLE,
Stenographer. [87]

[Report, August 27, 1914, of Inspector Mangels to
Commissioner of Immigration.]

No. 31,988.

August 27, 1914.

Commissioner of Immigration,
Seattle, Washington.

The case of Chin Hing, S. S. "Protesilaus," August 5, 1914, manifest #44, is that of an applicant seeking admission to the United States as the minor son of one Chin Shew, merchant, member of the Quong Wo Chong Co., 25 Pell Street, New York City, and is very similar to the case of Chin Quong (file 29,219) which was dismissed by the Department, June 11, 1912, the last-named applicant being an alleged brother of Chin Hing.

Besides the two sons named above, there are two others in China, aged respectively thirteen and fourteen years.

There are not *may* discrepancies in the testimony, and such as there are are not very serious. Attention may be called to certain dates given in the case, as they seem to be arranged in a way characteristic of many fraudulent cases:

Applicant born 11th month, 11th day.

Chin Quong born 12th month, 12th day.

Chan Wai born 5th month, 8th day.

Chan Hoy born 5th month, 18th day.

Chin Shew's mercantile status appears to be satisfactorily established at the present time.

Dr. Underwood believes applicant to be about twenty years old, and that is the age now claimed by him and his father. He is said to have been born on

a date corresponding to December 18, 1893, and will, therefore, in something less than four months be twenty-one years old, American. In view of Chin Hing's age, the evidence in the case should be most convincing. Should it be claimed that the applicant is entitled to admission as a minor required the care and protection of his father that claim would under any circumstances hold good for only about four months longer; but both the applicant and Chin Shew state that the young man is going to New York for the [88] purpose of joining the alleged father in business. Chin Quong also claimed the same thing, but it is stated now that he is doing nothing in China and that he is being supported by Chin Shew.

I beg to refer to pages 16 and 17 of the Chin Quong record as to former statements of Chin Shew concerning the ages of his sons.

The alleged father says that he first landed in this county in the first part of the seventh month of K. S. 19 (August, 1893), being admitted as a section 6 merchant, having come from Cuba where he had been but a few months. He says now that he thought the paper "was not very valuable so it has been mislaid," while in the Chin Quong case (page 14 of that record) he said in answer to a question as to what had become of that paper, "I destroyed it because I thought it wouldn't be of any use to keep it"—neither of which statements should, I submit, be credited. And Inspector Wiley states that a search of the custom house records covering admissions of Chinese at New York during the latter part of 1893

failed to disclose that anyone named Chin Shew *as* admitted there during the period mentioned.

The corroborating witness, Fong Goon Moon, is one of the usual type in cases similar to this. Applicant knows nothing concerning his family. Quong Kue, the corroborating witness in the Chin Quong case in 1912, does not appear as a witness in the present case, and applicant does not know him, though it appears that witness in his affidavit dated May 23, 1911, (file 29,219) swore that he was "personally and intimately acquainted with Chin Shew and his family," etc. However, it appears that he later modified that statement.

I do not think that the present applicant should be admitted.

(Signed) G. H. MANGELS,
Inspector. [89]

**[Examination of Applicant at Seattle, Wash.,
August 27, 1914.]**

Seattle, Wash., August 27, 1914.

Case of CHIN HING. #31,992.

G. H. MANGELS, Examiner and Reporter.

QUAN FOY, Interpreter.

Applicant testified:

INSPECTOR.—Q. Why are you coming to the United States?

APPLICANT.—A. To learn business with my father; he is in the drug business. (Exhibits envelope with the address of the alleged father, Quong Wo Chong Company, 25 Pell Street, New York, N. Y.)

Q. Who has been supporting you in China?

A. My father.

Q. Why,

A. Because I could not find anything to do in China.

Q. Who has been supporting your married brother and his family?

A. My father, because he had no business.

[**Examination of Chin Hing at Seattle, Wash.,
August 27, 1914.**]

Seattle, Wash., August 27, 1914.

Case No. 31,992.

HENRY A. MONROE, Examining Inspector.

QUAN FOY, Chinese Interpreter.

W. P. CALLAHAN, Stenographer.

CHIN HING, recalled.

Q. (By Mr. MONROE.) What is your name?

A. (By CHING HING.) Chin Hing.

Q. What is your wife's name?

A. Have no wife, I am not married

Q. How does it come that you should leave home without having taken a wife, as is the custom of your people?

A. Because I have no money to get married.

Q. Isn't your father a merchant in New York City?

[90] A. Yes.

Q. How does it come that he couldn't furnish you with the means necessary to your getting married?

A. I don't think he has much money himself.

Q. What do you intend to do in this county, if admitted? A. Stay in my father's business.

Q. Have you understood the interpreter at all times? A. Yes.

Q. Have you any further statement to make or additional evidence to present in support of your application? A. No.

Q. Not being satisfied that you are the minor son of a domiciled merchant, as claimed, you are denied admission. I now hand you form 429 which explains in Chinese characters the action being taken, and as well advises you of your right to an appeal from this decision if you feel aggrieved thereat; can you read this notice, and do you understand fully your rights at this time? A. I understand.

Q. You may communicate with your alleged father, counsel, and friends, of you desire?

A. I understand.

Q. Have you any local friend that you wished advised of your rejection?

A. My father has asked Chin Mon Doon, of the Quong Tuck Company, this city, to look after me, and I wish you would advise him.

A. This man will be advised at once of your rejection.

The following is a tracing of the applicant's signature as signed to stenographic notes:

(In Chinese.)

Certified a true transcript.

W. P. CALLAHAN,
Stenographer. [91]

Form 429

Notice to Rejected Chinese Applicant, Under Rule 5.

Department of Commerce and Labor.

Immigration Service.

Port of Seattle, Wash., August 27, 1914.

Chin Hing, #31,988.

You are hereby notified that your application for admission to the United States is denied. From this decision you have the right of appeal to the Secretary of Commerce and Labor. If you desire to appeal, you must notify the officer in charge at this port within two days of the receipt of this notice.

TRANSLATION.

(CHINESE CHARACTERS.)

HENRY M. WHITE,

Commissioner of Immigration.

H. A. M.

Ex. S. S. "Protesilaus," August 5, 1914. #44.
No. 31,992.

In the Matter of the Application of CHIN HING
for Admission to the United States as the
Minor Son of Chin Shew, a Domiciled Mer-
chant, of New York, N. Y.

Order Rejecting Applicant.

After duly considering the evidence, oral and documentary, introduced in the above-entitled matter, together with the reports of the investigating inspectors, and it not satisfactorily appearing [92] that the applicant is the minor son of a domiciled Chinese merchant, as claimed:

IT IS ORDERED that the said CHING HING

be and he is hereby rejected and denied admission to the United States.

FURTHER ORDERED that the said CHIN HING be returned to the country whence he came, to wit, China, by and at the expense of the steamship company bringing him to the United States.

Seattle, Washington, August 27, 1914.

(Signed) HENRY M. WHITE,
Commissioner.

[Telegram, September 2, 1914, Chin Shew to Henry White.]

WESTERN UNION DAY LETTER.

Always

Open

Received at 113 Cherry Street, Seattle, Washington.
W3065CH RM 21 BLUE MK

DUPLICATE OF TELEPHONED TELEGRAM.

TG New York Sept 2 1914

637

Hon Henry White

Commissioner of Immigration Seattle Wn I appeal from your decision on Chin Hing to Commissioner General kindly forward record to Washington for my attorney to receive.

CHIN SHEW.

1122AM.

Telephone No. ga 511.

Telephoned to Mr. Sargent.

Time 1126.

By E To be mailed.

U. S. Immigration Service. Received Sep. 3, 1914.
Seattle, Wash. [93]

[Notice from Commissioner-General to Commissioner of Immigration of Affirmance of Excluding Decision.]

U. S. Immigration Service. Sept. 25, 1914.
Received Sep. 30, 1914, Seattle, Wash.

Commissioner of Immigration,
Seattle, Wash.

Receipt is acknowledged of your letter of the 3d instant, No. 31,922, transmitting record on appeal in the case of Chin Hing.

After carefully considering the evidence presented in this case, the Acting Secretary has affirmed your excluding decision on the grounds that the mercantile status of the alleged father has not been satisfactorily established and the claimed relationship has not been reasonably shown to exist.

A. CAMINETTI,
CAS-C. Commissioner-General.
Incl. No. 1401. [94]

Digest of Evidence, Case of Chin Hing.

The applicant in this instance is almost a major, having been 20 years and 8 months old at time of arrival. Nevertheless, he seeks admission by virtue of his minority and the claimed status of his alleged father. The officials at New York and Seattle have conceded the mercantile status of the alleged father, Chin Shew, but the Bureau does not agree with them.

It appears that Chin Shew claimed he has a \$200 interest in the Quong Wo Chong Co., 25 Pell Street, New York City, and is employed there as bookkeeper. His assertions are corroborated by the testimony of

the manager of said firm and two white witnesses who deal with him in the store conducted by said firm. The officials in New York have known Chin Shew in connection with the business of Quong Wo Chong Co. Admitting the employment of Ching Shew in a mercantile establishment at a salary of \$30 or \$40 a month, it is not believed that his ownership of an interest of \$200 out of a total capitalization of \$11,000 (shown by a prior record, but not stated here) is sufficient to make him a merchant within the meaning of the law. It is also shown by the record that there are 14 active partners out of a total of 68, but the investigating officer failed to report whether they were all engaged in the store and whether the business was able to support that number of employees. Altogether, the Bureau cannot get away from the impression that Chin Shew's investment in this business was made and is retained for the sole purpose of securing a status that will enable him to bring "sons" to this country.

The evidence on the issue of relationship consists of the statements of Chin Shew, the applicant and a Chinese witness. The particular point urged against the proof by the Commissioner is that Chin Shew has failed to show he was in China at a time to [95] permit of his paternity of a son the age given for applicant. The unsatisfactory testimony of the applicant, though in agreement in most respects with that of the alleged father, and one serious discrepancy which has been overlooked at the port, constitute, in the Bureau's judgment, just as strong a ground for holding that the relationship has not

been reasonably established. The discrepancy is with respect to the paternal grandfather, applicant having stated, in effect, that this relative is dead and he has never seen him, while the alleged father said his father died at his home in 1900, which would be within the memory of applicant governing his presence in China *essential time*, the alleged father claimed he left his home in 1893, going to Havana, Cuba; and that he was admitted at New York about December, 1893, as a Section Six merchant. The arrival records fail to verify admission at New York. It is possible that Chin Shew entered this country in the manner claimed, although he has not given the correct date, intentionally or otherwise, but if he did he was not entitled to admission. The (cannot read) Department have seen a number of cases of Chinese who were permitted to go in transit through this country to Havana, Cuba, in the early nineties, and who later were erroneously permitted to enter this country from that place by virtue of Section Six certificates issued to them by the Chinese Consul there as merchants of some city in China, and vised by American consular officers without the investigation contemplated by the law having been made.

Local counsel, Corry M. Stadden, Esq., has requested re-examination of the New York records in an attempt to verify the landing of Chin Shew in December, 1893. He has given additional names by which this man might have been recorded. In view of what has been said hereinbefore as to the relationship and the mercantile status, there would be nothing gained by withholding decision for the result of another search of the records to show that Chin

Shew was admitted in December, 1893, or about that time, since that is [96] not a decisive factor in the case. The request has, accordingly, been denied.

BRIEF filed by counsel is next hereunder. His request that decision be withheld a few days for a report on a re-examination of the records of arrivals at New York should have been withdrawn by counsel in view of the Bureau's denial of his application for a re-examination of said records.

The statement he was not "permitted to see the Finding or Decree upon which the officers at the port denied admission," is intentionally erroneous. The Commissioner at Seattle designates his excluding decision "order rejecting applicant." Counsel was shown the order in this case on the basis of the Secretary's letter to him in the Yu Sher Suek case (53817/42). His attention was called to the erroneous nature of his statement, which he declined to change.

The rule of evidence which counsel cites to support his contention that the failure of the alleged father to prove his admission in December, 1893, does not affect the question of paternity, if applicable, would not help him in this instance. The alleged father, now having shown he entered this country from Cuba at the time stated, has not proven he was in China at the essential time to make access possible, so there is no presumption favorable to the claimed relationship.

The alleged father does assert he has been a merchant since entering this country in 1893. It is noted, however, that until about a year ago his inter-

est in the store where he is now employed is said to have been only \$100.

In re APPEAL; case of CHIN HING, alleged minor son of a domiciled Chinese merchant.

MEMORANDUM FOR THE ACTING SECRETARY. [97]

After carefully considering the evidence in this record, the Bureau concurs in the excluding decision rendered by the Commissioner at Seattle on the ground that the relationship claimed has not been shown to exist. It also believes that applicant should be denied because the mercantile status of the alleged father is not reasonably established.

It is recommended that the exclusion of applicant be ordered and his deportation directed.

(Sgd.) F. H. LARNED,
Acting Commissioner-General.

Approved.

(Sgd.) J. B. D.

Cas.

Sailing 28th inst.

Note local counsel, Corry M. Stadden, Esq., requests an opportunity to present an oral argument.

[Letter, October 1, 1914, from Acting Commissioner-General to Commissioner of Immigration.]

U. S. DEPARTMENT OF LABOR,
BUREAU OF IMMIGRATION.
WASHINGTON.

In answering refer to
No. 53817/43.

October 1, 1914.

U. S. Immigration Service, Received
Oct. 6, 1914, Seattle, Washington.

Commissioner of Immigration,
Seattle, Washington.

Receipt is acknowledged of your telegram of the 30th ultimo, advising that petition for Writ of Habeas Corpus has been filed in the Chin Hing case (31922).

As this case was decided upon the record as submitted by you, and as you have been furnished a copy of the Bureau's memorandum which was approved by the Department, it is not considered necessary to forward you the record certified by the Department. You can use your own copy in making return to the writ. [98]

It is believed that the court will take the position that the decision having been rendered by Mr. Densmore as Acting Secretary, he will assume, in the absence of positive evidence to the contrary, that authority for him to act as such exists. See the following cases: Tang Tun v. Edsell, 223 U. S. 673, 682; Hannibal Bridge Company v. U. S., 221 U. S. 194, 206; Keyser v. Hitz, 133 U. S., 138, 145; in re Jem

Yuen, 188 Fed. 350, 354; and N. Y. and Md. R. R. Co. v. Winans, 17 How. (58 U. S.), 30 40. The provisions of the Revised Statutes which apply are found in Sections 177, 178 and 179.

F. H. LARNED,
Acting Commissioner-General.

CAS-s.

**[Notice, October 3, 1914, from Commissioner to
Dodwell & Co., Ltd.]**

No. 31,992.

October 3, 1914.

Messrs. Dodwell & Co., Ltd.,
Steamship Agents,
Seattle, Washington.

Sirs:

This is to inform you that Chin Hing, a Chinese who arrived at this port August 5, 1914, on the S. S. "Protesilaus," and who was ordered returned to the country whence he came by the Department, was not placed aboard the S. S. "Teucer" Tuesday evening, September 29th, as intended for the reason that Mr. John J. Sullivan, a lawyer of this city, secured a Writ of Habeas Corpus. Chin Hing is being detained here at the expense of his friends, the court requiring a deposit of \$100 to cover maintenance charges. On termination of the matter you will be advised of its import.

Respectfully,

HAM/WC.

Exact copy as signed by Henry M. White, Commissioner. Mailed Oct. 3, 1914. By C. [99]

[Endorsed]: Immigration File. Respondent's Exhibit "A." [100]

*In the United States District Court, in and for the
Western District of Washington, Northern
Division.*

No. 2857.

In the Matter of the Application of CHIN HING,
for a Writ of Habeas Corpus.

**Order [Extending Time to File Assignment of
Errors].**

The Court having been advised of the Stipulation agreed by and between the counsel for the petitioner and the counsel for the Government in the above-entitled cause, that the petitioner as appellant may have an additional ten (10) days, up to and including June ninth, in which to file his assignment of errors in an appeal from this Court's decision, and sufficient cause having been shown,

IT IS HEREBY ORDERED that the petitioner as appellant be, and is hereby allowed up to and including June ninth, 1915, in which to file said assignment of errors.

Done in open court this 1st day of June, 1915.

JEREMIAH NETERER.

[Endorsed]: Order. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, June 1, 1915. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy. [101]

*In the United States District Court, in and for the
Western District of Washington, Northern Division.*

No. 2857.

In the Matter of the Application of CHING HING,
for a Writ of Habeas Corpus.

Petition for, and Order Allowing Appeal.

Ching Hing, petitioner in the above-entitled cause, by and through his attorney, John J. Sullivan, feeling himself aggrieved by the order and judgment remanding said petitioner to the custody of the Commissioner of Immigration, made and entered and filed on the 29 day of May, 1915, does hereby appeal from said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, and prays that his appeal may be allowed, and that a transcript of the record and all proceedings and papers upon which said order and judgment were made and entered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit.

Your petitioner respectfully prays that on account thereof this appeal be allowed to correct the errors complained of, and to reverse, annul and set aside the said order and judgment, made and entered in the premises on the 29 day of May, 1915.

Your petitioner further states that he will on or before the ninth day of June, 1915, file herein his assignment of errors alleged to have been committed in the above-entitled proceeding, and intended to be urged by your petitioner as appellant upon the prose-

cution of this suit upon appeal.

Your petitioner further prays that this appeal may be allowed, and that he be allowed to go on bail in the sum of One Thousand Five Hundred (\$1500.00) Dollars, with sureties to the satisfaction of the clerk of the above-entitled court, for his [103] appearance to answer the judgment of the United States Circuit Court of Appeals for the Ninth Circuit, and to give himself into custody upon said order of said court.

Dated at Seattle, Washington, this 1st day of June, 1915.

CHIN HING.

JOHN J. SULLIVAN,

By Attorney for Petitioner, Ching Hing.

And now on the 1st day of June, 1915, the Court having heard the petition of Chin Hing, by and through his attorney, John J. Sullivan, and being full advised in the premises, it is ordered that the appeal prayed for in the foregoing petition be allowed, as prayed for by said petition by and through his Attorney, John J. Sullivan.

And it is further ordered, that the said petitioner, Chin Hing, may be enlarged pending the said appeal, upon executing a recognizance, with sureties, in the sum of One Thousand Five Hundred (\$1500.00) Dollars to the satisfaction of the clerk of the above-entitled court, O. K.'d by the United States Attorney, for his appearance to answer the judgment of the United States Circuit Court of Appeals for the Ninth Circuit, and upon his failure to give bail, to remain in the custody of the Commissioner of Immigration at Seattle.

DONE in open court this 1st day of June, 1915.

JEREMIAH NETERER,
United States District Judge, Presiding in said Western District of Washington, Northern Division.

Received a copy of the within Petition and Order this 1st day of June, 1915.

CLAY ALLEN,

2. United States Attorney. [103]

[Indorsed]: Petition for and order allowing appeal. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, June 1, 1915. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy. [104]

*In the United States District Court, in and for the
Western District of Washington, Northern Division.*

No. 2857.

In the Matter of the Application of CHIN HING,
for a writ of Habeas Corpus.

Bill of Exceptions.

BE IT REMEMBERED, that on the twenty-ninth day of September, 1914, came John J. Sullivan, as attorney for and in behalf of Chin Hing, an alleged alien, and an alleged son of a merchant of New York City, and appealed to the United States of America for a Writ of Habeas Corpus, on the ground of unlawful detention of said petitioner, and on the further ground that one J. B. Densmore, solicitor of the Department of Labor, acted without authority in ordering the deportation of said petitioner, and that in consequence he had been deprived of a fair hearing,

and that petitioner's appeal had been heard and determined by one not authorized to do so; to show cause an Order was issued from the United States District Court, in and for the Western District of Washington, Northern Division, and in due time the United States made a return from said Order and Petition for a Writ of Habeas Corpus, admitting and denying the allegations in said petition, and the United States further tendered and made a part of said return, an alleged original record, marked exhibit "A," as taken before the Immigration Department. A stipulation was entered into between counsel for the Government and counsel for the petitioner to the effect that interrogatories might be taken propounded to Louis F. Post, Assistant Secretary of Commerce and Labor, and Corrie M. Stadden of Washington, District of Columbia, before one Thomas G. Lewis, a Notary Public, which said interrogatories listed information from said Louis F. Post, and said Corrie M. Stadden as to whether or not said Louis F. Post was present in the city of Washington on the date that said J. B. Densmore acted and signed the Deportation Order, and reviewed the case of the said [105] petitioner, Chin Hing. The Order was signed by Honorable Jeremiah Neterer, Judge in and for the Western District of Washington, Northern Division, and upon the refusal of Louis F. Post to answer the interrogatories propounded by the said Commissioner appointed by order of the Court, a rule to show cause was issued by Justice Gould in the Supreme Court of the District of Columbia, and while said matter was

pending before said Court, counsel for the Government petitioned Honorable Jeremiah Neterer to issue an Order withdrawing said commission to take and propound interrogatories to said Louis F. Post. An answer was filed to said petition by counsel for the petitioner, Chin Hing, and hearing was had, on which said date the Court allowed the Government to make a further return, showing that the Secretary had reviewed the record and affirmed the decision of the Commissioner for the deportation of the petitioner, Chin Hing, and on the tenth day of May, 1915 the Court rendered an opinion granting the petition of the Government withdrawing said commission to take interrogatories, and on the twenty-ninth day of May, 1915, the Court signed a judgment and order in conformity with the said petition, discharging said Writ of Habeas Corpus, and remanding the petitioner to the custody of the Commissioner of Immigration. To all of which the petitioner excepted as herein set forth. Counsel asked the Court to rule:

I.

That the so-called memorandum for the Secretary, or Assistant Secretary, or Acting Secretary, as shown by the record, was irregular, illegal, and not given under oath, and its admission to the record sent up to the Department of Commerce and Labor, constituted illegality, and unfair hearing on appeal.

II.

That no other person except the Secretary of Commerce and Labor has a right to rule on appeal, as provided by the treaty, [106] laws and rules governing the admission of Chinese.

III.

That the petitioner had had no fair trial, in that letters, memorandums, etc., from officials and inspectors of the Department were considered by the Commissioner of Immigration without the petitioner being given a right to deny the same, or being apprised of their contents; that the same were not given under oath, and were not evidence, being hearsay, and not permissible under the rules governing the admission of Chinese.

IV.

That the evidence of so-called exhibit "A" disclosed such irregularity and illegality that the Court should investigate the record to do justice.

V.

That upon the evidence of this proceeding it appears from the record that the petitioner did not have a fair hearing, as he was entitled to upon application for admission into the United States under the law, constitution and treaty and rules and regulations of the United States governing the admission of Chinese, and his detention and deportation being illegal, he is now entitled to discharge.

VI.

Counsel asked the Court to rule that there was no evidence to justify the refusing of the United States, through its officials, to admit the petitioner from entering the United States, and no evidence to warrant finding that he was not the son of a Chinese merchant and resident of the United States, but the Court refused so to rule.

VII.

Counsel asked the Court to rule that inasmuch as the issue was before the Court as to whether or not J. B. Densmore acted with or without authority, the Court should determine that question and [107] not allow a return to be made on the day of the hearing, showing that the Secretary had examined the original record, when, according to said first return, as shown by the record, this Court was presumed to have the record before him, and made a part of said return, but the Court refused so to rule.

VIII.

Counsel asked the Court to rule that inasmuch as Justice Gould had decided that Louis F. Post, Assistant Secretary, should answer the interrogatories as to whether or not he was in Washington at the time the appeal of the petitioner was heard, and Order of Deportation signed by J. B. Densmore, the Court should not grant the petition of the Government, and admit the return offered on the day of the hearing, but should allow the interrogatories to be propounded and determine the question upon the issues which had already been made, to wit: whether or not J. B. Densmore acted with authority in deciding the appeal and ordering the deportation of Chin Hing, but the Court refused so to rule.

IX.

That upon the law and the evidence the petitioner is illegally restrained and detained, and was not given a fair hearing, either before the Commissioner of Immigration at Seattle, Washington, or on appeal, and his Order of Deportation was signed by one acting without authority; therefore, the petitioner

ought to be discharged from custody, but the Court refused so to rule; and ordered that the Writ of Habeas Corpus heretofore issued, be discharged, and that the petition of the Government to withdraw the interrogatories heretofore stipulated, be withdrawn and the petitioner, Chin Hing, be remanded to the custody of the Commissioner of Immigration; and to said rulings and refusal to rule, and to said Order and Judgment of the Court, counsel for petitioner duly excepted and said exceptions were allowed by the Court; the Court having filed an Opinion which is included [108] in the transcript of the record in this case, and is made a part thereof. The petitioner later appealed from said decision and order of the Court entered on the twenty-ninth day of May, 1915, to the Circuit Court of Appeals in and for the Ninth Circuit, and filed a petition for appeal, and Assignment of Errors, and said appeal was allowed, and Citation issued, as appears by the record.

Thereupon, petitioner, Chin Hing, tenders this, his Bill of Exceptions to the actions, rulings and judgment of the Court, and the refusals to rule in the particulars set out, to have the same force and effect as if each and every said exception had been separately signed and sealed, which were signed and made a part of the record in this case.

Dated this 9th day of June, 1915.

CHIN HING,

Petitioner.

By JOHN J. SULLIVAN,

His Attorney and Solicitor.

O. K.—G. P. FISHBURNE,

Asst. U. S. Atty.

[Order Allowing Bill of Exceptions.]

Allowed.

JEREMIAH NETERER,

Judge.

Copy of within Bill of Exceptions received and due service of same acknowledged this 9th day of June, 1915.

WINTER S. MARTIN,

Asst. Attorney for U. S.

[Indorsed]: Bill of Exceptions. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, June 30, 1915. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy. [109]

In the District Court of the United States for the Western District of Washington, Northern Division.

No. 2857.

In the Matter of the Application of CHIN HING
for a Writ of Habeas Corpus.

Bail Bond.

WHEREAS, CHIN HING, by and through his attorney, John J. Sullivan, filed an application in the above-entitled Court for a Writ of Habeas Corpus, which said Writ was after hearing, discharged by the Honorable Jeremiah Neterer, Judge in and for the Western District of Washington, Northern Division, and said petitioner remanded to the custody of the United States Commissioner of Immigration; and

WHEREAS, the said petitioner, Chin Hing, by and through his Attorney, John J. Sullivan, has appealed from said Order and Judgment entered on the 29th day of May, 1915, to the Circuit Court of Appeals for the Ninth Circuit; and

WHEREAS, pending said appeal the above-entitled Court has required the said petitioner, Chin Hing to be enlarged upon furnishing a bail bond in the sum of one thousand five hundred (\$1,500.00) dollars, with sufficient sureties for the appearance of said Chin Hing in the above-entitled court, in case said Decree and Order and Judgment be affirmed.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That we, Chin Hing, as principal, by and through his attorney, John J. Sullivan, and National Surety Company, a corporation, as sureties, are held and firmly bound unto the United States in the penal sum of one thousand five hundred (\$1,500.00) dollars, for the payment of which well and truly to be made they bind themselves, their heirs executors, administrators and assigns, jointly and severally, by these presents. [110]

Sealed with their seals and dated this 1st day of June, 1915.

The condition of the above obligation is such that if the above-mentioned Chin Hing shall at all times render himself amenable to the orders and processes of the above-entitled Court, in case said Decree of the above-entitled Court be affirmed by the Circuit Court of Appeals of the Ninth Circuit, and will appear for judgment in case it be ultimately determined that the said petitioner is not entitled to a Writ of Habeas

Corpus, and is remanded to the custody of the Commissioner of Immigration at Seattle, Washington, then this obligation to be void; otherwise to remain in full force and effect.

CHIN HING.

By JOHN J. SULLIVAN,

Attorney for Petitioner Chin Hing.

[Seal] NATIONAL SURETY COMPANY,

By GEO W. ALLEN,

Attorney in Fact.

O. K.—ALLEN, U. S. Atty.

Approved:

JEREMIAH NETERER,

Judge.

[Indorsed]: Bail Bond. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, June 5, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [111]

*In the United States District Court, in and for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of the Application of CHIN HING,
for a Writ of Habeas Corpus.

**Stipulation [Extending Time to File Assignment of
Errors].**

IT IS HEREBY STIPULATED AND
AGREED by and between the counsel for the peti-
tioner, Chin Hing, and the counsel for the respond-
ent in the above-entitled cause, that the petitioner as

appellant may have an additional ten (10) days up to and including June ninth, in which to file his assignment of errors alleged to have been committed in the above-entitled proceeding, and intended to be urged by the petitioner as appellant upon the prosecution of this suit upon appeal to the Circuit Court of Appeals for the Ninth Circuit.

Dated this 7th day of June, 1915.

CLAY ALLEN and
GEO. P. FISHBURNE,
Attorneys for United States Government.
BEELER & SULLIVAN,
Attorneys for Petitioner, Chin Hing.

[Indorsed]: Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. June 9, 1915. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy. [112]

*In the United States District Court, in and for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of the Application of CHIN HING,
for a Writ of Habeas Corpus.

Assignment of Errors.

Comes now John J. Sullivan, and as attorney for the petitioner and appellant in the above-entitled cause, says: That in the record and proceeding in this case, and in the Order and Judgment entered on the twenty-ninth day of May, 1915, there is manifest error in this, to wit:

I.

That the Court erred in refusing to grant the Writ of Habeas Corpus, and discharge the petitioner.

II.

That the Court erred in admitting as evidence the so-called record marked exhibit "A" without further proof than the certificate thereunto appended.

III.

That the Court erred in ruling that the so-called record marked exhibit "A" was to the effect that Chin Hing had been granted a full and fair hearing on his application to land in the United States.

IV.

That the Court erred in ruling that the so-called record marked exhibit "A" proved that the petitioner had been accorded the right to appeal from the excluding decision, and that said appeal had been heard and decided in a fair and legal manner, in accordance with the rules and regulations governing the admission of Chinese into the United States.

V.

That the Court erred in overruling counsel for petitioner [113] that inasmuch as said so-called exhibit "A" contained no written decision or order signed by the Secretary of Commerce and Labor, it did not appear therefrom that the appeal had been duly acted upon by the United States.

VI.

That the Court erred in ruling that the so-called exhibit "A" proved that a proper record on appeal had been submitted to, and acted upon by the officers authorized by law to act, under and by virtue of the

rules and regulations governing admission of Chinese into the United States, and the right to appeal from an adverse decision by the Commissioners at the port of entry.

VII.

That the Court erred in refusing to rule as requested by counsel for petitioner, that the memorandum for the Acting Secretary, included in said record, was an irregular, improper, and illegal addition to the record made by the Commissioner-General of Immigration, or under his authority, and was not evidence, was not given under oath as shown by the record, and should not have been made a part of the record, or admissible.

VIII.

That the Court erred in ruling that the so-called record marked exhibit "A," conclusively proved that the petitioner had been accorded a fair hearing, both at the port of entry and on appeal, in accordance with the law and treaty between the United States and China, and rules and regulations governing the admission of Chinese, and that there was evidence to substantiate the findings of the Department.

IX.

That the Court erred in refusing to rule that no one but the Secretary of Commerce and Labor has a right to affirm an excluding decision. [114]

X.

That the Court erred in refusing to rule that there was nothing in the record to show that the Acting Secretary had been authorized to act.

XI.

That the Court erred in refusing to rule that the record showed such unfairness and illegality as to warrant the Court to investigate the status, or dispose of the case as law and justice required, omitting therefrom such evidence as should not have been admissible.

XII.

That the Court erred in not finding that the petitioner was the son of a merchant of New York City.

XIII.

That the Court erred in granting the Petition of the Government to withdraw commission to take interrogatories of Louis F. Post, Assistant Secretary, heretofore granted by the Court.

XIV.

That the Court erred in granting the Petition of the Government to withdraw commission to take interrogatories, after the same had been stipulated, and upon refusal of said Louis F. Post to answer and rule to show cause had been issued by Justice Gould, an Order was entered by said Justice Gould commanding said Louis F. Post to answer same, and upon said answer to said interrogatories depended the determination as to whether the petitioner had been ordered deported without authority, and the Court should have allowed said matter to be determined as the issue had been made up.

XV.

That the Court erred in allowing a copy of said record taken at said hearing before the Immigration Department to be termed the "original record"

in this case, as shown by the first return. [115]

XVI.

That the Court erred in allowing a further return on the day of hearing by the Government, showing that the Secretary had examined the original record, when by the first return, the original record was alleged to be before the Court, and no Order had been issued by this court allowing same to be taken from the files of the court.

XVII.

That the Court erred in withdrawing the commission to take interrogatories and allow an alleged finding of the Secretary of Commerce and Labor to be offered in evidence, after the said cause between the petitioner and the Government was at issue.

XVIII.

That the Court erred in not holding that by the record in the cause, the burden of proof was upon the Government to show that J. B. Densmore acted with authority.

XIX.

That the Court erred in not finding that the petitioner should have had notice that the appeal would be heard by the Secretary of Commerce and Labor, after this case was before the Court, and that permission should be given counsel to present a brief, or oral argument, or both before said Secretary; and that said alleged hearing under said circumstances without Order of the Court when this case was before the Court and issues made up, was irregular, illegal, and unfair, and the Court should not have admitted the finding and return as made on the day of hearing,

as shown by the record.

XX.

That the Court erred in rendering a Decree and Judgment, discharging the Writ of Habeas Corpus, and remanding the petitioner to the custody of the officers of the United States, and depriving him of his liberty. [116]

XXI.

That said Order entered on the twenty-ninth day of May, 1915, is not warranted by, nor supported by the facts of the law in the premises, but is contrary thereto.

WHEREFORE, said Chin Hing, the petitioner and appellant herein, by and through his attorney, John J. Sullivan, prays that his Assignment of Errors be entered upon the record in this case, and that upon the hearing of this appeal it may be adjudged by the United States Circuit Court of Appeals for the Ninth Circuit, and that the Order and Judgment on the twenty-ninth day of May, 1915, made and entered, be in all things reversed, set aside and held for naught, and that it be adjudged and decreed that the petitioner and appellant have an adjudication in his favor, as prayed for in said amended petition.

CHIN HING,
Petitioner.

By and Through JOHN J. SULLIVAN,
His Attorney and Solicitor.

[Indorsed]:Assignment of Errors. Filed in the
U. S. District Court, Western Dist. of Washington,

Northern Division. June 10, 1915. Frank L. Crosby, Clerk. By Ed M. Lakin, Deputy. [117]

*In the United States District Court, in and for the
Western District of Washington, Northern Division.*

No. 2857.

In the Matter of the Application of CHIN HING,
for a Writ of Habeas Corpus.

Citation (Copy).

To HENRY M. WHITE, Commissioner of Immigration, and CLAY ALLEN and GEORGE P. FISHBURNE, United States Attorney and Assistant United States Attorney, His Attorneys, Greeting:

You and each of you are hereby cited and admonished to be and appear before the United States Circuit Court of Appeals for the Ninth Circuit at the City of San Francisco, in the State of California, within thirty (30) days from the date of this citation, pursuant to an appeal filed in the clerk's office of the United States District Court for the Western District of Washington, Northern Division, in a proceeding therein entitled—"In the Matter of the Application of Chin Hing, for a Writ of Habeas Corpus," numbered 2875, and show cause, if any there be, why the order and judgment of the United States District Court for the Western District of Washington, Northern Division, in said appeal mentioned, should not be reversed, set aside and held for naught, and why speedy justice should not be done in that behalf.

Witness the Honorable EDWARD DOUGLAS WHITE, Chief Justice of the Supreme Court of the United States, this 1st day of June, 1915.

[Seal] JEREMIAH NETERER,
United States District Judge, Presiding in said
Western District of Washington, Northern Division. [118]

Copy of within Citation received and due service of same acknowledged this 1st day of June, 1915.

CLAY ALLEN,
Attorney for Respondent.

[Indorsed]: No. 2857. Original. In the District Court in and for the Western District of Washington, Northern Division. In the Matter of the Application of Chin Hing, for a Writ of Habeas Corpus. Citation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, June 1, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy. Beeler & Sullivan, Lawyers, 510-11 White Building, Seattle, Wash. [119]

*In the United States Circuit Court of Appeals, for
the Ninth Circuit.*

No. 2857.

In the Matter of the Application of CHIN HING,
for a Writ of Habeas Corpus.

**Stipulation [Allowing U. S. Government 60 Days to
File Such Papers as They may See Fit, to be a
Part of Transcript of Record, etc].**

IT IS HEREBY AGREED AND STIPULATED
by and between Beeler & Sullivan, attorneys for

Petitioner, Chin Hing, and Clay Allen and George P. Fishburne, attorneys for the United States Government, that the United States Government may have a period of sixty (60) days within which to file such papers as they may see fit, to be a part of the transcript of record in the above-entitled case, and the clerk of the United States District Court, in and for the Western District of Washington, Northern Division, may have sixty (60) days from the time allowed by law, within which to certify the transcript in the above-entitled case to the above-named court.

Dated this fourteenth day of June, 1915.

CLAY ALLEN,

GEORGE P. FISHBURNE,

Attorneys for United States Government.

BEELEER & SULLIVAN,

Attorneys for Petitioner, Chin Hing.

Approved:

JEREMIAH NETERER,

Judge. [120]

[Indorsed]: Stipulation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division, June 18, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [121]

*In the United States District Court, in and for the
Western District of Washington, Northern Divi-
sion.*

No. 2857.

In the Matter of the Application of CHING HING,
for a Writ of Habeas Corpus.

Praeipie (for Certified Copy of Citation).

To the Clerk of the Above-entitled Court:

You will pleas issue one certified copy of the Cita-
tion in the above-entitled cause, and hand same to
the marshal for service.

JOHN J. SULLIVAN,

Attorney for Petitioner, Ching Hing. [122]

*In the United States District Court, in and for the
Western District of Washington, Northern Divi-
sion.*

No. 2857.

In the Matter of the Application of CHIN HING
for a Writ of Habeas Corpus.

Praeipie [for Record].

To the Clerk of the Above-entitled Court:

You will please prepare transcript of record in
the above-entitled cause on appeal, and file same in
the Circuit Court of Appeals, omitting therefrom the
briefs of both counsel, original petition, as a further
amended petition was filed by leave of court, con-
taining an allegation of all the facts relied upon
and Ex. "A" except pages 8, 9, 31, 32, 33, 35, 36, 37,

38, 39, 40, 45, 46, 47 and 58.

JOHN J. SULLIVAN,
Attorney for Petitioner.

[Indorsed]: Praeceptum (for Certified Copy of Citation). Praeceptum (for Record). Filed in the U. S. District Court, Western District of Washington, Northern Division, June 1, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy.

**[Waiver of Provisions of Act of February 13, 1911,
etc.]**

We waive the provisions of the Act approved February 13, 1911, and direct that you forward typewritten transcript to the Circuit Court of Appeals for printing as provided under Rule 105 of this Court.

BEELER & SULLIVAN,
Attorneys for Petitioner. [123]

United States District Court for the Western District of Washington.

No. 2857.

In re Application of CHIN HING, for a Writ of Habeas Corpus.

Praeceptum [of U. S. Attorney].

To the Clerk of the Above-entitled Court:

You will please add Original Petition, Opinion of Judge Jeremiah Neterer and the parts of the exhibits marked "Use."

CLAY ALLEN,
U. S. Attorney.
By G. P. FISHBURNE,
Assistant U. S. Attorney.

[Indorsed]: Praecipe for Process, etc. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. June 30, 1915. Frank L. Crosby, Clerk. By E. M. L., Deputy. [124]

In the District Court of the United States, for the Western District of Washington, Northern Division.

No. 2857.

In the Matter of the Application of CHIN HING,
for a Writ of Habeas Corpus.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

United States of America,
Western District of Washington,—ss.

I, Frank L. Crosby, clerk of the United States District Court, for the Western District of Washington, do hereby certify the foregoing 124 typewritten pages numbered from 1 to 124, inclusive, to be a full, true, correct and complete copy of so much of the record, papers, and other proceedings in the above and foregoing entitled cause, as are necessary to the hearing of said cause in the United States Circuit Court of Appeals for the Ninth Circuit, and as is called for by counsel of record herein, as the same remain of record and on file in the office of the clerk of said District Court, and that the same constitutes the record on appeal to the said Circuit Court of Appeals for the Ninth Circuit from the District Court of the United States for the Western District of Washington.

I further certify the following to be a full, true and correct statement of all expenses, costs, fees and charges incurred and paid in my office by or on behalf of counsel for petitioner, for making record, certificate or return, to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit: [125]

Clerk's fee (Sec. 828, R. S. U. S.), for making record, certificate or re- turn, 244 folios at 15c.....	\$36.60
Certificate of clerk to transcript of record, four folios at 15c.....	.60
Seal to said Certificate.....	.20
	<hr/>
Total.....	\$37.40

I hereby certify that the above cost for preparing and certifying record amounting to \$37.40, has been paid to me by Messrs. Beeler & Sullivan, counsel for petitioner.

I further certify that I hereto attach and herewith transmit the original Citation issued in this cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court at Seattle, in said District, this 26th day of August, 1915.

[Seal]

FRANK L. CROSBY,
Clerk U. S. District Court. [126]

*In the United States District Court, in and for the
Western District of Washington, Northern Di-
vision.*

No. 2857.

In the Matter of the Application of CHIN HING,
for a Writ of Habeas Corpus.

Citation [Original].

To Henry M. White, Commissioner of Immigration,
and Clay Allen and George P. Fishburne,
United States Attorney and Assistant United
States Attorney, His Attorneys, Greeting:

You and each of you are hereby cited and admon-
ished to be and appear before the United States Cir-
cuit Court of Appeals for the Ninth Circuit at the
City of San Francisco, in the State of California,
within thirty (30) days from the date of this cita-
tion, pursuant to an appeal filed in the clerk's office
of the United States District Court for the Western
District of Washington, Northern Division, in a pro-
ceeding therein entitled, "In the Matter of the Ap-
plication of Chin Hing, for a Writ of Habeas Cor-
pus," numbered 2857, and show cause, if any there
be, why the order and judgment of the United States
District Court for the Western District of Wash-
ington, Northern Division, in said appeal mentioned,
should not be reversed, set aside and held for naught,
and why speedy justice should not be done in that
behalf.

Witness, the Honorable EDWARD DOUGLAS
WHITE, Chief Justice of the Supreme Court of

the United States, this 1st day of June, 1915.

[Seal]

JEREMIAH NETERER,

United States District Judge, Presiding in Said
Western District of Washington, Northern Division. [127]

[Endorsed]: No. 2857. Original. In the U. S. District Court, in and for the Western District of Washington, Northern Division. In the Matter of the Application of Chin Hing, for a Writ of Habeas Corpus. Citation. Filed in the U. S. District Court, Western Dist. of Washington, Northern Division. Jun. 1, 1915. Frank L. Crosby, Clerk. By Ed. M. Lakin, Deputy.

Copy of within Citation received and due service of same acknowledged this 1st day of June, 1915.

CLAY ALLEN,

Attorney for Respondent.

[Endorsed]: No. 2651. United States Circuit Court of Appeals for the Ninth Circuit. Chin Hing, Appellant, vs. Henry M. White, as Commissioner of Immigration at the Port of Seattle, Washington, for the United States Government, Appellee. In the Matter of the Application of Chin Hing for a Writ of Habeas Corpus. Transcript of Record. Upon Appeal from the United States District Court for

the Western District of Washington, Northern Division.

Received August 30, 1915.

F. D. MONCKTON,
Clerk.

Filed September 13, 1915.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.